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No. 2568

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United States  
Circuit Court of Appeals

For the Ninth Circuit.

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WILLIAM B. EDWARDS and ROBERT L. CUL-  
PEPPER,

Plaintiffs in Error,

vs.

THE UNITED STATES OF AMERICA,  
Defendant in Error.

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Transcript of Record.

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Upon Writ of Error to the United States District Court  
of the Southern District of California,  
Southern Division.

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Filed

FEB 15 1915

F. D. Monckton,  
Clerk.



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Circuit Court of Appeals  
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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**Names and Addresses of Attorneys.**

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J. O. PHILLIPS, Esq., San Bernardino, Cali-  
fornia.

For Defendants in Error:

ALBERT SCHOONOVER, Esq., United States  
Attorney, Los Angeles, California;  
DUKE STONE, Esq., Assistant United States  
Attorney, Los Angeles, California; and  
J. ROBERT O'CONNOR, Esq., Assistant  
United States Attorney, Los Angeles, Cali-  
fornia. [3\*]

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*In the District Court of the United States, in and for  
the Southern District of California, Southern  
Division.*

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS and ROBERT L. CUL-  
PEPPER et als.,

Defendants.

**Writ of Error.**

United States of America,—ss.

The President of the United States of America to  
the Honorable the Judge of the District Court of  
the United States for the Southern District of  
California, Southern Division, Greeting:

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\*Page-number appearing at foot of page of original certified Record.

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, between William B. Edwards and Robert L. Culpepper, plaintiffs in error, and the United States of America, defendant in error, a manifest error hath happened to the great damage of the said William B. Edwards and Robert L. Culpepper, plaintiffs in error, as by their complaint appears:

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same in the said Circuit Court of Appeals at the city of San Francisco, in the state of [4] California, within thirty days from the date hereof, that the record and proceedings aforesaid, being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

WITNESS the Honorable EDWARD D. WHITE, Chief Justice of the United States, the



18th day of May, in the year of Our Lord, 1914.

[Seal]

WM. M. VAN DYKE,

Clerk of the United States District Court, Southern  
District of California, Southern Division.

By Chas. N. Williams,  
Deputy Clerk.

Allowed by:

OLIN WELLBORN,

District Judge.

I hereby certify that a copy of the within writ of error was on the 19th day of May, 1914, lodged in the clerk's office of the United States District Court for the Southern District of California, Southern Division, for the said defendants in error.

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Clerk U. S. District Court, Southern District of  
California, Southern Division.

By Chas. N. Williams. [5]

[Endorsed]: No. 655—Crim. United States District Court, Southern District of California, Southern Division. The United States of America, Plaintiffs, vs. William B. Edwards et al., Defendants. Writ of Error. Filed May 19, 1914. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. [6]

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**Citation on Writ of Error.**

UNITED STATES OF AMERICA—ss.

To the United States of America, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San

Francisco, in the State of California, within thirty days from date hereof, pursuant to a Writ of Error filed in the clerk's office of the United States District Court for the Southern District of California, Southern Division, wherein William B. Edwards and Robert L. Culpepper are Plaintiffs in Error, and you are Defendants in Error, to show cause, if any there be, why the Judgment entered against the said Plaintiffs in Error, and each of them, as in the said Writ of Error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable OLIN WELLBORN, Judge of the United States District Court for the Southern District of California, this 19th day of May, in the year of our Lord one thousand nine hundred and fourteen.

OLIN WELLBORN,  
United States District Judge, for the Southern District of California.

Service of the within Citation is hereby admitted, and a Copy thereof accepted, this 19th day of May, 1914.

ALBERT SCHOONOVER,  
Attorneys for Plaintiffs and Defendants in Error.  
[7]

[Endorsed]: No. 655—Crim. U. S. District Court, Southern District of California, Southern Division. The United States of America, Plaintiffs, vs. William B. Edwards et al., Defendants. Citation on Writ of Error. Filed May 19, 1914. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk.  
[8]

*In the District Court of the United States, in and for  
the Southern District of California, Southern  
Division.*

No. 655—CRIM.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS, ROBERT L. CUL-  
PEPPER et al.,

Defendants. [9]

**Indictment.**

*In the District Court of the United States, in and  
for the Southern District of California, South-  
ern Division.*

At a stated term of said Court, begun and holden  
at the City of Los Angeles, County of Los Angeles,  
within and for the Southern Division of the South-  
ern District of California, on the second Monday of  
January, in the year of our Lord one thousand nine  
hundred and thirteen,

The Grand Jurors of the United States of  
America, chosen, selected and sworn, within and for  
the Division and District aforesaid, on their oath  
present:

That William B. Edwards, Robert L. Culpepper,  
John McLaren, Lee Wells, William Wells, and Arch  
Robison, whose full and true names are, and the full  
and true name of each of whom is, other than as  
herein stated, to the Grand Jurors unknown, late of  
the Southern Division of the Southern District of

California, heretofore, to wit, on or about the 1st day of June, in the year of our Lord one thousand nine hundred and twelve, in the County of Riverside, in the State and Southern Division of the Southern District of California, and within the jurisdiction of this Honorable Court, did, wilfully, knowingly, unlawfully, wickedly, corruptly, and feloniously, conspire, combine, confederate and agree together, and with divers other persons, whose names are to the Grand Jurors unknown, to injure, oppress, threaten and intimidate a certain citizen of the United States, [10] to wit, one James M. Ocheltree, in the free exercise and enjoyment of a right and privilege secured to him by the Constitution and laws of the United States, that is to say, that theretofore, to wit, on the 18th day of May, 1910, and at all times thereafter in this indictment mentioned, the said James M. Ocheltree was a citizen of the United States and in all respects qualified to take and enter and hold public lands of the United States under the public land laws of the United States, and especially to make and perfect the homestead entry hereinafter mentioned; that on the 18th day of May, 1910, the said James M. Ocheltree, desiring to avail himself of the benefits of the public land laws of the United States, and especially of the laws of the United States relating to homesteads, did, under and by virtue of said public land laws of the United States, and more particularly under and by virtue of the provisions of Section 2289 et seq. of the Revised Statutes of the United States, and the other laws of the United States relating to homesteads, make and file at and in the



United States Land Office in the City of Los Angeles, State of California, his application and declaration under oath, to enter as a homestead under said public land laws of the United States relating to homesteads, the following described tract of land, situated in the County of Riverside, State of California, and within the Los Angeles land district, to wit, the Southwest quarter of Section 12, Township 7 South, Range 22 East, San Bernardino Base and Meridian; and thereafter, to wit, on the 1st day of [11] June, 1912, the said declaration under oath and application to enter the said tract of land as a homestead was duly and regularly allowed by the Register and Receiver of the said United States Land Office at Los Angeles, and on said 1st day of June, 1912, the said James M. Ocheltree, was allowed to, and did enter as a homestead under said public land laws of the United States relating to homesteads, the said above-described tract of land; and ever since said 1st day of June, 1912, the said James M. Ocheltree has been, and is now the owner of, and entitled to the exercise and possession of all rights flowing from the said homestead application and entry, including the right to make settlement and residence upon said tract of land above described, and to live and reside upon the same, and to cultivate and improve the same in the manner required by said public land laws of the United States relating to homesteads; and heretofore, to wit, on the 6th day of November, 1912, the said James M. Ocheltree, being desirous of complying with said public land laws of the United States relating to homesteads, attempted to make settlement and residence

upon said land above described, and for that purpose, he, in company with his wife and family, went in and on to said land with the necessary materials, tools, household furniture and utensils to construct a house upon said land, and to make settlement and residence upon said land for the purpose aforesaid; that the said William B. Edwards, Robert L. Culpepper, John McLaren, Lee Wells, William Wells, and Arch Robison, heretofore, to wit, on or [12] about the 1st day of June, 1912, well knowing of the making of said homestead entry on said above-described land and premises by the said James M. Ocheltree, and well knowing the said James M. Ocheltree's intention to make settlement and residence upon and to enter into the possession of, and cultivate and improve said land and premises, under and by virtue of, and as required by said public land laws of the United States relating to homesteads, as aforesaid, at and within the County of Riverside, and within the Southern Division of the Southern District of California, did wilfully, knowingly, unlawfully and feloniously, conspire, combine, confederate and agree together, and with divers other persons, whose names are, as aforesaid, to the Grand Jurors unknown, to injure, oppress, threaten and intimidate the said James M. Ocheltree, in the free exercise and enjoyment of the right and privilege secured to him by the Constitution and laws of the United States, to make effectual his said homestead entry, by entering into the possession of, making settlement upon, and residing upon, cultivating, and improving the said land embraced in the said homestead entry, and in other respects com-

plying with the public land laws of the United States relating to homesteads, and thereby earning and procuring title and patent to said land; that the said conspiracy was to be carried out and the object thereof effected by them, the said William B. Edwards, Robert L. Culpepper, John McLaren, Lee Wells, William Wells and Arch Robison, and said [13] other persons, whose names are, as aforesaid, to the Grand Jurors unknown, by going upon said land in force and numbers and making threats of violence to the said James M. Ocheltree and his family against the persons and property of the said James M. Ocheltree and his family, and by publishing such threats in the community where the said land is situated, and where the said James M. Ocheltree and his family lived; and by forcibly obstructing the efforts of the said James M. Ocheltree to settle upon said land, take his household effects thereon, build a dwelling-house upon and cultivate said land; and by appearing in strength and numbers upon said land, and by and with the use of force and violence against the said James M. Ocheltree and his family, ejecting and removing them and their goods and effects from said land and premises, and preventing them from settling and residing upon and cultivating said land; that the above-described land and premises, and the whole thereof, were at the time of the making and filing of said declaration and application for homestead by the said James M. Ocheltree, and at the time when the said homestead entry was allowed as aforesaid, unappropriated public lands of the United States open to entry under said public



land laws of the United States relating to homesteads; and the intent and object of the said William B. Edwards, Robert L. Culpepper, John McLaren, Lee Wells, William Wells and Arch Robison, and the said other persons, whose names are, as aforesaid, to the Grand Jurors unknown, being to so injure, oppress, threaten and intimidate the said James M. [14] Ocheltree in the free exercise and enjoyment of the said right secured by the Constitution and laws of the United States, as aforesaid, as to cause and compel him, the said James M. Ocheltree, against his will and desire, to cease the exercise and enjoyment of said land and homestead entry and all of his rights thereunder.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present:

That in pursuance of said conspiracy, and to effect and accomplish the object thereof, the said Robert L. Culpepper, on the 6th day of November, 1912, at and within the County of Riverside, State of California, did, wilfully appear upon the aforesaid land, accompanied by the said William B. Edwards and John McLaren, and did threaten and state to the said James M. Ocheltree that if he, the said James M. Ocheltree, should attempt to unload certain materials, tools, household furniture, utensils and other property which he, the said James M. Ocheltree, had on said day, brought loaded upon a wagon to said land, and if he, the said James M. Ocheltree, did not remove said materials, tools, household furniture, utensils, and other property from said land and depart hence with the same, that he, the said Robert L.

Culpepper, would burn and destroy the said materials, tools, household furniture, utensils and other property of the said James M. Ocheltree.

And the Grand Jurors aforesaid, on their oath, aforesaid, do further present: [15]

That in further pursuance of said conspiracy, and to effect and accomplish the object thereof, the said William B. Edwards and Robert L. Culpepper, on the 6th day of November, 1912, at and within the County of Riverside, State of California, and upon said land, did, wilfully and forcibly take possession of and remove from said land and premises, some of the household furniture of the said James M. Ocheltree, which he, the said James M. Ocheltree, had then and there brought upon said land, and with which he intended and was endeavoring to make settlement and residence thereon.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present:

That in further pursuance of said conspiracy, and to effect and accomplish the object thereof, the said Robert L. Culpepper, on the 6th day of November, 1912, at and within the County of Riverside, State of California, did wilfully strike and beat a horse which was harnessed to a wagon upon which was loaded certain household goods and effects of the said James M. Ocheltree, which he, the said James M. Ocheltree, had then and there brought upon the said above-described land for the purpose of making settlement thereon, and the said Robert L. Culpepper so struck said horse for the purpose of causing it to run from said land, and haul said household furniture and ef-

fects away therefrom.

Contrary to the form of the Statutes of the United States in such case made and provided, and against the peace and dignity of the said United States.

[16]

## SECOND COUNT.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present:

That William B. Edwards, Robert L. Culpepper, John McLaren, Lee Wells, William Wells and Arch Robison, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the Grand Jurors unknown, late of the Southern Division of the Southern District of California, heretofore, to wit, on or about the 1st day of June, in the year of our Lord one thousand nine hundred and twelve, in the County of Riverside, in the State and Southern Division of the Southern District of California, and within the jurisdiction of this Honorable Court, did, wilfully, knowingly, unlawfully, wickedly, corruptly and feloniously, conspire, combine, confederate and agree together, and with divers other persons, whose names are to the Grand Jurors unknown, to injure, oppress, threaten, and intimidate a certain citizen of the United States, to wit, one Patrick H. Bodkin, in the free exercise and enjoyment of a right and privilege secured to him by the Constitution and laws of the United States, that is to say, that theretofore, to wit, on the 18th day of May, 1910, and at all times thereafter in this indictment mentioned, the said Patrick H. Bodkin, was a citizen of the United States and in all respects quali-



fied to take and enter and hold public lands of the United States under the public land laws of the United States, and especially to make and perfect the [17] homestead entry hereinafter mentioned; that on the 18th day of May, 1910, the said Patrick H. Bodkin, desiring to avail himself of the benefits of the public land laws of the United States, and especially of the laws of the United States relating to homesteads, did, under and by virtue of said public land laws of the United States, and more particularly under and by virtue of the provisions of Sections 2289 et seq. of the Revised Statutes of the United States, and the other laws of the United States relating to homesteads, make and file at and in the United States Land Office in the City of Los Angeles, State of California, his application and declaration under oath, to enter as a homestead under said public land laws of the United States relating to homesteads, the following described tract of land, situated in the County of Riverside, State of California, and within the Los Angeles land district, to wit, the Northeast quarter of Section 11, Township 7 South, Range 22 East, San Bernardino Base and Meridian; and thereafter, to wit, on the 1st day of June, 1912, the said declaration under oath and application to enter the said tract of land as a homestead was duly and regularly allowed by the Register and Receiver of the said United States Land Office at Los Angeles, and on said 1st day of June, 1912, the said Patrick H. Bodkin, was allowed to, and did enter as a homestead under said public land laws of the United States relating to homesteads, the said above-described tract

of land; that the above-described land and premises, and the whole thereof, were at the time of the making and filing of said declaration and application [18] for homestead by the said Patrick H. Bodkin, and at the time when the said homestead entry was allowed, as aforesaid, unappropriated public lands of the United States open to entry under said public land laws of the United States relating to homesteads; and ever since said 1st day of June, 1912, the said Patrick H. Bodkin has been, and is now the owner of, and entitled to the exercise and possession of all rights flowing from the said homestead application and entry, including the right to make settlement and residence upon said tract of land above described and to live and reside upon the same, and to cultivate and improve the same in the manner required by said public land laws of the United States relating to homesteads; and heretofore, to wit, on the 25th day of November, 1912, the said Patrick H. Bodkin, being desirous of complying with said public land laws of the United States relating to homesteads, attempted to make settlement and residence upon said land above described, and for that purpose he, in company with his wife and family, went in and on to said land with the necessary materials, tools, household furniture and utensils to construct a house upon said land, and to make settlement and residence upon said land for the purpose aforesaid; that the said William B. Edwards, Robert L. Culpepper, John McLaren, Lee Wells, William Wells and Arch Robison, heretofore, to wit, on or about the 1st day of June, 1912, well knowing of the making of said



homestead entry on said above-described land and premises by the said Patrick H. Bodkin, and [19] well knowing the said Patrick H. Bodkin's intention to make settlement and residence upon and to enter into the possession of, and cultivate and improve said land and premises, under and by virtue of, and as required by said public land laws of the United States relating to homesteads, as aforesaid, at and within the County of Riverside, and within the Southern Division of the Southern District of California, did wilfully, knowingly, unlawfully, and feloniously, conspire, combine, confederate and agree together, and with divers other persons, whose names are, as aforesaid, to the Grand Jurors unknown, to injure, oppress, threaten and intimidate the said Patrick H. Bodkin, in the free exercise and enjoyment of the right and privilege secured to him by the Constitution and laws of the United States, to make effectual his said homestead entry, by entering into the possession of, making settlement upon, and residing upon, cultivating, and improving the said land embraced in the said homestead entry, and in other respects complying with the public land laws of the United States relating to homesteads, and thereby earning and procuring title and patent to said land; that the said conspiracy was to be carried out and the object thereof effected by them, the said William B. Edwards, Robert L. Culpepper, John McLaren, Lee Wells, William Wells and Arch Robison, and said other persons, whose names are, as aforesaid, to the Grand Jurors unknown, by going upon said land in force and numbers and making threats of violence to

the said Patrick H. Bodkin and his family against the persons and property of the said Patrick H. Bodkin and his family, and by publishing such threats [20] in the community where the said land is situated, and where the said Patrick H. Bodkin and his family lived; and by forcibly obstructing the efforts of the said Patrick H. Bodkin to settle upon said land, take his household effects thereon, build a dwelling-house upon and cultivate said land; and by appearing in strength and numbers upon said land, and by and with the use of force and violence against the said Patrick H. Bodkin and his family, ejecting and removing them and their goods and effects from said land and premises, and preventing them from settling and residing upon and cultivating said land; and the intent and object of the said William B. Edwards, Robert L. Culpepper, John McLaren, Lee Wells, William Wells and Arch Robison, and the said other persons, whose names are, as aforesaid, to the Grand Jurors unknown, being to so injure, oppress, threaten and intimidate the said Patrick H. Bodkin in the free exercise and enjoyment of the said right secured by the Constitution and laws of the United States, as aforesaid, as to cause and compel him, the said Patrick H. Bodkin, against his will and desire, to cease the exercise and enjoyment of said rights and privileges and to be deprived of said land and homestead entry and all of his rights thereunder.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present:

That in pursuance of said conspiracy, and to effect

and accomplish the object thereof, the said William B. Edwards, on the 25th day of November, 1912, at and within the County of Riverside, State of California, did, wilfully, appear upon the aforesaid land, accompanied [21] by a constable named Ross Wells, and did say to the said Patrick H. Bodkin, who had then and there come upon said land with certain materials, tools, household furniture, utensils and other property, loaded upon a wagon, "What the devil are all these people doing here?" and thereupon the said William B. Edwards ordered and caused said constable, Ross Wells, to arrest, and he did arrest, the wife and son of Patrick H. Bodkin.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present:

That in further pursuance of said conspiracy, and to effect and accomplish the object thereof, certain persons, whose names are to the Grand Jurors unknown, but of the number of those mentioned above as conspirators, on the 25th day of November, 1912, at and within the County of Riverside, State of California, did wilfully break, knock down and demolish a tent house which the said Patrick H. Bodkin had erected upon the said above-described land for the purpose of making settlement thereon.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present:

That in further pursuance of said conspiracy, and to effect and accomplish the object thereof, the said William B. Edwards, on or about the 17th day of December, 1912, at and within the County of Riverside, State of California, and upon said land, did will-



fully deliver to the said Patrick H. Bodkin, a certain threatening notice in writing, which notice was in words and figures as follows: [22]

“Neighbours, California, Dec. 17th, 1912.  
To the *Rev.* Patrick H. Bodkin and others.

You are hereby notified that I have possession and am entitled to the possession of these premesises (N. E. Qr. of Sec. 11, T. 7 S., R. 22 E., S. B. M.), and any attempt by you or others to assume possession of these premises without due process of law is an offence both againt the civil and criminal laws of the State, and you are hereby formally and finally notified and ordered to depart and decamp and refrain from further contaminating the vicinity with your putrescent presence.

W. B. EDWARDS.”

Contrary to the form of the Statutes of the United States in such case made and provided, and against the peace and dignity of the said United States.

A. I. McCORMICK,

United States Attorney.

DUDLEY W. ROBINSON,

Asst. United States Attorney. [23]

[Indorsed]: “No. 655—Crim. United States District Court, Southern District of California, Southern Division. The United States of America vs. William B. Edwards, Robert L. Culpepper, John McLaren, Lee Wells, William Wells, and Arch Robinson. Indictment for Violation Section 19, Federal Penal Code of 1910. Conspiracy to injure, oppress, etc. citizens in the exercise of civil rights. A true

bill. S. D. Barkley, Foreman. Presented and filed in open court, this 11th day of July, A. D. 1913. Wm. M. Van Dyke, Clerk. By C. E. Scott, Deputy Clerk. —————, United States Attorney.” [24]

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**[Minutes of Court—July 29, 1913—Pleas.]**

At a stated term, to wit, the July term, A. D. 1913, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Tuesday, the twenty-ninth day of July, in the year of our Lord one thousand nine hundred and thirteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,  
Plaintiffs,  
vs.

WILLIAM B. EDWARDS et al.,  
Defendants.

This cause coming on this day by consent for the further arraignment of all defendants except defendant Lee Wells, and the entry of their pleas; Dudley W. Robinson, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; defendants William B. Edwards, Robert L. Culpepper, John McLaren, William Wells and Arch Robison being present on bail, with their counsel, Robert L. Hanley, Esq.; and said five defendants having been called

and further arraigned, having waived the reading of the indictment, and, on being required to plead thereto, said five defendants now present having pleaded not guilty as charged in the indictment, which pleas are by order of the court hereby entered herein; it is ordered that said cause be, and the same hereby is continued to be hereafter set down for the trial of defendants William B. Edwards, Robert L. Culpepper, John McLaren, William Wells and Arch Robison. [25]

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[Minutes of Trial—April 2, 1914.]

At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Thursday, the second day of April, in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,  
Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,  
Defendants.

This cause coming on this day for the trial, before the court and a jury to be impanelled, of defendants, William B. Edwards, Robert L. Culpepper, John

McLaren, William Wells and Arch Robison, who are each and all present on bail; and defendant Lee Wells being also present on bail, and having remained present during the impanellment of the jury herein and until this cause was continued for further trial until 2 o'clock, P. M. of this day; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; J. O. Phillips, Esq., and Henry O. Willis, Esq., appearing as counsel for defendants; John P. Doyle being present as shorthand reporter of the testimony and proceedings, and acting as such; and the court having ordered that the trial proceed, and that a jury be impanelled herein; and the following twelve (12) term trial jurors having been duly drawn, called, and sworn on *voir dire*, to wit: Arthur W. Ballard, George H. Cooper, Frank H. Smith, G. L. Davidson, Frank L. A. Violet, Geo. [26] E. Triggs, J. F. Anderson, Albert S. Stimson, Frank S. Munson, Daniel Mulhern, John S. Winchester and I. H. Polk; and a statement of the nature of the case having been made by Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States; and said jurors having been examined by Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, and by Henry O. Willis, Esq., of counsel for defendants; and John S. Winchester having been excused for cause, pursuant to the stipulation of counsel for the respective parties; and J. J. McQuaid, a term trial juror, having been duly drawn, called, sworn on *voir dire* and examined by counsel for the Government and by counsel for defendants; and the twelve jurors



now in the box having been passed for cause by counsel for both sides; and George H. Cooper having been challenged peremptorily by defendants and excused; and S. S. Boothe, a term trial juror, having been duly drawn, called, sworn on *voir dire*, examined by counsel for the Government and by counsel for defendants and passed for cause; and the twelve (12) jurors now in the box having been accepted by counsel for the Government and by counsel for defendants and duly sworn in a body as the jury to try this cause, said jury as so impanelled and sworn consisting of the following named jurors, to wit:

#### JURY:

- |                        |                       |
|------------------------|-----------------------|
| 1. Arthur W. Ballard,  | 7. J. F. Anderson,    |
| 2. S. S. Boothe,       | 8. Albert S. Stimson, |
| 3. Frank H. Smith,     | 9. Frank S. Munson,   |
| 4. G. L. Davidson,     | 10. Daniel Mulhern,   |
| 5. Frank L. A. Violet, | 11. J. J. McQuaid,    |
| 6. Geo. E. Triggs,     | 12. I. H. Polk.       |

and the indictment having been read to the jury and the pleas of not guilty of said five defendants on trial having been stated to the jury by the clerk; and Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, having made a statement [27] to the jury of what the Government expects to prove; and the Court having admonished the jury, that, during the progress of this trial, they are not to permit other persons to talk to them, nor themselves talk to other persons, about this case or anything connected with this case, and that, until said case is finally given them for consideration, under the in-



structions of the Court, they are not to talk with each other about this case or anything connected with it; it is, at the hour of 11:40 o'clock A. M., ordered that this cause be, and the same hereby is continued for further trial until the hour of 2 o'clock, P. M., of this day, until which time the jurors are excused.

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No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,  
Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,  
Defendants.

This cause coming on now, at the hour of 2 o'clock, P. M., of this day, for the further trial, before the Court and a jury heretofore duly impanelled herein, of defendants William B. Edwards, Robert L. Culpepper, John McLaren, William Wells and Arch Robison, who are each and all present on bail, and defendant Lee Wells being also present on bail; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; J. O. Phillips, Esq., and Henry O. Willis, Esq., appearing as counsel for defendants; John P. Doyle having been sworn as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and now, by consent, defendant Lee Wells having been called and arraigned, having stated that his true name is Lee Wells, and the indictment having been read at the morning session in the pres-

ence of said defendant, [28] Lee Wells, and, on being required to plead thereto, said defendant Lee Wells having pleaded not guilty as charged therein, which plea is now by order of the Court entered herein; and Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the Government, and Henry O. Willis, Esq., of counsel for defendants, having stipulated, and the Court having ordered, pursuant to said stipulation, that the trial of this cause before the jury now impanelled herein shall proceed as against all defendants, including said defendant Lee Wells, with the same force and effect as if said plea of defendant Lee Wells had been entered at the time of the entry of the pleas of the other five defendants in this cause; and Frank Buren having been called and sworn as a witness for the United States, and having been given his testimony; it is, at the hour of 3:02 o'clock P. M., by the Court ordered that this cause be, and the same hereby is passed temporarily for further trial, to enable the Court to receive a verdict in another cause and make the orders connected therewith and occasioned thereby.

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No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,  
 Plaintiffs,  
 vs.  
 WILLIAM B. EDWARDS et al.,  
 Defendants.

This cause having been now, at the hour of 3:09 o'clock, P. M., called for further trial before the

Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; each and all of the defendants herein being present on bail, with their counsel, J. O. Phillips, Esq., and Henry O. Willis, Esq.; John P. Doyle being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and Frank Buren, a witness on behalf of the United [29] States, being on the stand for further examination, and having given his testimony; and Court, at the hour of 3:30 o'clock P. M., having taken a recess for 8 minutes; and now, at the hour of 3:38 o'clock, P. M., Court having reconvened; and defendants, counsel and shorthand reporter being present as before; and the roll of the jury having been called, and all being present; and Frank Buren, a witness on behalf of the United States, being on the stand for further examination, and having given his testimony; and Patrick H. Bodkin having been called and sworn as a witness on behalf of the United States, and having given his testimony; and the Court having given the jury the usual admonition; it is, at the hour of 4:32 o'clock, P. M., ordered that this cause be, and the same hereby is continued for further trial until Friday, the 3d day of April, 1914, at 10:30 o'clock, A. M., until which time the jurors are excused. [30]



At a stated term, to wit, the January term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Friday, the third day of April, in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

[**Minutes of Trial—April 3, 1914.**]

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,  
Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,  
Defendants.

This cause coming on this day to be further tried before the Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being each and all present on bail, with their counsel, J. O. Phillips, Esq., and Henry O. Willis, Esq., John P. Doyle, and N. H. Peterson being present as shorthand reporters of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and Patrick H. Bodkin, a witness on behalf of the United States, having resumed the stand for further examination, and having given his testimony; and, in connection with the testimony of said

witness, the Government having offered the following exhibits, which are admitted in evidence in its behalf, to wit: U. S. Ex. 1, Photograph; U. S. Ex. 2, Letter of Dec. 17th, 1912; U. S. Ex. 3, Letter to the Rev Patrick Henry Bodkin; U. S. Ex. 4, Notice of W. B. Edwards, Contestee; and U. S. Ex. 5, Printed Notice; and, also in connection with said testimony, defendants having offered an exhibit, which is offered in evidence in their behalf [31] as Defts. Ex. "A," Information of Threatened Offence; and Court having at the hour of 12:03 o'clock P. M., taken a recess until the hour of 2 o'clock P. M., of this day;

And now, at the hour of 2 o'clock P. M., Court having reconvened; and defendants, counsel and the shorthand reporter being present as before; and the roll of the jury having been called, and all being present; and Patrick H. Bodkin, a witness on behalf of the United States, having resumed the stand for further examination, and having given his testimony; and, in connection with the testimony of said witness, the defendants having offered two exhibits, which are admitted in evidence in their behalf, to wit: Defts. Exhibit "B," Decision of Justice of the Peace; and Defts. Exhibit "C," Copy of Judgment of Superior Court; and, also in connection with said testimony, the Government having offered a letter to L. G. Fleischer, and envelope of same, which are together admitted in evidence as U. S. Ex. 6; and Mrs. Patrick H. Bodkin having been called and sworn as a witness on behalf of the United States, and having given her testimony; and Court, at the hour of 3:32 o'clock P. M., having taken a recess for 15 minutes;

and now, at the hour of 3:47 o'clock P. M., Court having reconvened; and defendants and counsel being present as before; and N. H. Peterson having been sworn as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and Mrs. Patrick H. Bodkin, a witness on behalf of the United States, being on the stand for further examination, and having given her testimony; and Court, at the hour of 3:52 o'clock P. M., having taken a recess for 5 minutes; and now, at the hour of 3:57 o'clock P. M., Court having reconvened; and defendants, counsel and the shorthand reporter being present as before; and the roll of the jury having been called, and all being present; and Mrs. Patrick H. Bodkin, a witness on behalf of the United States, being on the stand for further examination, [32] and having given her testimony; it is, at the hour of 4:05 o'clock P. M., ordered that this cause be, and the same hereby is continued until Tuesday, the 7th day of April, 1914, at 10:30 o'clock A. M., for further trial, until which time the jurors are excused. [33]

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At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the City of Los Angeles, on Tuesday, the seventh day of April, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.



[Minutes of Trial—April 7, 1914.]

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on this day to be further tried before the court and a jury heretofore duly impanelled herein; Duke Stone, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; defendants being present on bail, with their counsel, Henry O. Willis, Esq., and J. O. Phillips, Esq.; John P. Doyle and N. H. Peterson being present as shorthand reporters of the testimony and proceedings, and acting as such; and the roll of the jury having been called, in connection with the call of the roll of the entire panel of term trial jurors, and all being present; and Mrs. Patrick H. Bodkin, a witness on behalf of the United States, having resumed the stand for further examination, and having given her testimony; and Jesse I. Bodkin and L. G. Fleischer having respectively been called and sworn as witnesses on behalf of the United States, and having given their testimony; it is, at the hour of 12 o'clock M., ordered that this cause be, and the same hereby is continued until the hour of 2 o'clock P. M. of this day for further trial, until which time the jurors are excused.

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No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,  
Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,  
Defendants.

This cause coming on at this time to be further tried before the court and a jury heretofore duly impanelled herein; Duke Stone, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; defendants being present on bail, with their counsel, Henry O. Willis, Esq., and J. O. Phillips, Esq.; John P. Doyle and N. H. Peterson being present as shorthand reporters of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and being present; and F. G. Fleischer, a witness on behalf of the United States, having resumed the stand for further examination, and having given his testimony; and, in connection with the testimony of said witness, the defendants having offered two exhibits, which are admitted in evidence in their behalf, to wit: Defts. Exhibit "D," Notice, signed by John McLaren; and Defts. Exhibit "E," copy of Summons and Complaint; and court, at the hour of 3:35 o'clock P. M., having taken a recess for 10 minutes; and now, at the hour of 3:45 o'clock P. M., court having reconvened; and defendants, and counsel being present as before; John P. Doyle being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being pres-



ent; and F. G. Fleischer, a witness on behalf of the United States, being on the stand for further examination, and having given his testimony; and the Government, in connection with the testimony of said witness, having offered a copy of summons and complaint, which are together admitted in evidence in its behalf as U. S. Ex. 7; and J. M. Ocheltree having [35] been called and sworn as a witness on behalf of the United States, and having given his testimony; it is, at the hour of 4:15 o'clock P. M., ordered that this cause be, and the same hereby is continued for further trial until Wednesday, the 8th day of April, 1914, at 10:30 o'clock A. M., until which time the jurors are excused. [36]

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At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the City of Los Angeles, on Wednesday, the eighth day of April, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

[Minutes of Trial—April 8, 1914.]

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on this day to be further tried before the court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on bail, with their counsel, Henry O. Willis, Esq., and J. O. Phillips, Esq.; John P. Doyle and N. H. Peterson being present as shorthand reporters of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and J. M. Ocheltree, a witness on behalf of the United States, having resumed the stand for further examination, and having given his testimony; and, in connection with the testimony of said witness, the Government having offered three exhibits, which are admitted in evidence in its behalf, to wit: U. S. Ex. 8, Letter of June 20, 1912, from R. L. Culpepper; U. S. Ex. 9, Letter of 7/6, 1912, from R. L. Culpepper; and U. S. Ex. 10, copy of complaint, summons, notice, notice of trial and judgment; and court, at the hour of 11:38 o'clock A. M., having taken a recess for 10 minutes; and now, at the hour of 11:48 o'clock A. M., court having [37] reconvened; and defendants and counsel being present as before; John P. Doyle being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and J. M. Ocheltree, a witness on behalf of the United States, being on the stand for further examination, and having given his testimony; it is, at the hour of 12:33 o'clock P. M., ordered that this cause

be, and the same hereby is continued until the hour of 2:30 o'clock P. M., of this day for further trial, until which time the jurors are excused.

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No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on at this time to be further tried before the court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on bail, with their counsel, Henry O. Willis, Esq., and J. O. Phillips, Esq.; N. H. Peterson being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and J. M. Ocheltree, a witness on behalf of the United States, having resumed the stand for further examination, and having given his testimony; and, in connection with the testimony of said witness, the defendants having offered three exhibits, which are admitted in evidence in their behalf, to wit: Defts. Ex. "F," notice; Defts. Ex. "G," letter of July 2, 1912, to W. L. Culpepper, and envelope; and Defts. Ex. "H," letter of October 23, 1912; and Mrs. J. M. Ocheltree, Mansel Ocheltree [38] and Paul Ocheltree having respectively been called and

sworn as witnesses on behalf of the United States, and having given their testimony; and F. F. Nelson having been called and affirmed as a witness on behalf of the United States, and having given his testimony; it is, at the hour of 4:28 o'clock P. M., ordered that this cause be, and the same hereby is continued for further trial until Thursday, the 9th day of April, 1914, at 10:30 o'clock A. M., until which time the jurors are excused. [39]

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At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the City of Los Angeles, on Thursday, the ninth day of April, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

[Minutes of Trial—April 9, 1914.]

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on this day to be further tried before the court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being



present in court on bail, with the exception of defendant William B. Edwards, who is not present; Henry O. Willis, Esq., and J. O. Phillips, Esq., appearing as counsel for defendants; and John P. Doyle being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and no testimony being taken or proceedings had in this cause at this time on account of the absence of one defendant; and court, at the hour of 10:45 o'clock A. M., having taken a recess for 5 minutes; and now, at the hour of 10:50 o'clock A. M., court having reconvened; and counsel and the shorthand reporter being present as before; and all the defendants now being present on bail; and the roll of the jury having been called, and all being present; and F. F. Nelson, a witness on behalf of the United States, having resumed the stand for further examination, and [40] having given his testimony; and, in connection with the testimony of said witness, the Government having offered a Notice, which is admitted in evidence as U. S. Ex. 11; and L. C. G. Harris, D. C. Willman, and F. M. Stewart having respectively been called and sworn as witnesses on behalf of the United States, and having given their testimony; and Patrick H. Bodkin, a witness on behalf of the United States, having been recalled for further examination, and having given his testimony; it is, at the hour of 12 o'clock M., ordered that this cause be, and the same hereby is continued for further trial until the hour of 2 o'clock P. M., of this day, until

which time the jurors are excused.

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No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,  
Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,  
Defendants.

This cause coming on at this time to be further tried before the court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on bail, with their counsel, Henry O. Willis, Esq., and J. O. Phillips, Esq.; John P. Doyle, being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and Patrick H. Bodkin, a witness on behalf of the United States, having resumed the stand for further examination, and having given his testimony; and, in connection with the testimony of said witness, defendants having offered three exhibits, which are admitted in evidence in their behalf, to wit: Defts. Ex. "I," letter of Dec. 14, 1912, to Mr. George Moore; Defts. Ex. "J," Order of George Moore of Dec. 16, 1912; and Defts. [41] Ex. "K," Affidavit of Patrick H. Bodkin; and Dennis Ocheltree having been called and sworn as a witness on behalf of the United States, and having given his testimony; and the Government having rested; and court, at the hour of

3:06 o'clock P. M., having taken a recess for 8 minutes; and now, at the hour of 3:14 o'clock P. M., court having reconvened; and defendants, counsel and the shorthand reporter being present as before; and the roll of the jury having been called, and all being present; and Arch Robison and Lee Wells, two of the defendants, having been respectively called and sworn as witnesses on behalf of defendants, and having given their testimony; it is, at the hour of 4:30 o'clock P. M., ordered that this cause be, and the same hereby is continued until Friday, the 10th day of April, 1914, at 10:30 o'clock A. M., for further trial, until which time the jurors are excused. [42]

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At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Friday, the tenth day of April, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

[Minutes of Trial—April 10, 1914.]

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on this day to be further tried before the Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on bail, with their counsel, Henry O. Willis, Esq., and J. O. Phillips, Esq.; John P. Doyle, being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and court having, at the hour of 10:35 o'clock A. M., taken a recess for 8 minutes; and now, at the hour of 10:43 o'clock A. M., court having reconvened; and defendants, counsel and shorthand reported being present as before; said cause is thereupon passed temporarily for further trial, to enable the Court to enter certain orders in other cases.

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No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,  
 Plaintiffs,  
 vs.  
 WILLIAM B. EDWARDS et al.,  
 Defendants.

This cause coming on at this time to be further tried before the Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present in court on bail, with their counsel, Henry O. Willis, Esq., and J. O. Phillips, Esq.; John P. Doyle being present as shorthand reporter of the



testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being present; and Lee Wells, one of the defendants, and a witness in their behalf, having resumed the stand for further examination, and having given his testimony; and Mary Shiffer, Arthur A. D. Barkelow and J. O. Phillips having respectively been called and sworn as witnesses on behalf of defendants, and having given their testimony; it is, at the hour of 12:05 o'clock P. M., ordered that this cause be, and the same hereby is continued until the hour of 2 o'clock P. M., of this day, for further trial, until which time the jurors are excused.

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No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on at this time to be further tried before the Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on bail, with their counsel, Henry O. Willis, Esq., [44] and J. O. Phillips, Esq.; John P. Doyle being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called, and all being

present; and J. O. Phillips, a witness on behalf of defendants, having resumed the stand for further examination, and having given his testimony; and William Wells and Robert L. Culpepper, two of the defendants, having been called and sworn as witnesses on behalf of the defendants, and having given their testimony; and court, at the hour of 3:30 o'clock P. M., having taken a recess for 8 minutes; and now, at the hour of 3:38 o'clock P. M., court having reconvened; and defendants, counsel and the shorthand reporter being present as before; and the roll of the jury having been called, and all being present; and Robert L. Culpepper, one of the defendants, and a witness in their behalf, being on the stand for further examination, and having given his testimony; and John McLaren, one of the defendants, having been called and sworn as a witness in their behalf, but having given no testimony at this time; it is, at the hour of 4:15 o'clock P. M., ordered that the jurors be, and they hereby are excused until Tuesday, the 14th day of April, 1914, at 10:30 o'clock A. M.; and thereafter, at the hour of 4:49 o'clock P. M., it is ordered that this cause be, and the same hereby is continued until Tuesday, the 14th day of April, 1914, at 10:30 o'clock A. M. [45]

At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Tuesday, the fourteenth day of April, in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

**[Minutes of Trial—April 14, 1914.]**

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on this day to be further tried before the Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; defendants being present on bail, with their counsel, Henry O. Willis, Esq.; John P. Doyle being present as shorthand reporter of the testimony and proceedings; and the roll of the jury having been called, in connection with the call of the roll of the entire panel of term trial jurors, and all being present; and the jury having, at the hour of 10:40 o'clock A. M., been excused until the hour of 2 o'clock P. M., of this day; and a question of law having been argued, on behalf of defendants, by Henry O. Willis,

Esq., of counsel for defendants; and court, at the hour of 11:11 o'clock A. M., having taken a recess for 4 minutes; and now, at the hour of 11:15 o'clock A. M., court having reconvened; and defendants, counsel and shorthand reporter being present as before; and a question of law having been further argued, on behalf of defendants, by Henry O. Willis, Esq., of counsel for defendants, and said question having also been argued by James M. Sheridan, Esq., Special Assistant to the U. S. [46] Attorney General, appearing as *amicus curiae*; and court, at the hour of 12:06 o'clock P. M., having taken a recess until the hour of 2 o'clock P. M., of this day;

And now, at the hour of 2 o'clock P. M., court having reconvened; and defendants, counsel and the shorthand reporter being present as before; and the roll of the jury having been called, and all being present; and the jurors having thereupon been excused from the courtroom temporarily; and a question of law having been further argued by James M. Sheridan, Esq., Special Assistant to the U. S. Attorney General, appearing as *amicus curiae*, and said question having also been further argued, on behalf of defendants, by Henry O. Willis, Esq., of counsel for defendants; and court, at the hour of 3:50 o'clock P. M., having taken a recess for 5 minutes; and now, at the hour of 3:55 o'clock P. M., court having reconvened; and defendants, counsel and the shorthand reporter being present as before; and the jury having been called into court; and the roll of the jury having been called, and all being present; it is, at the hour of 3:58 o'clock P. M., ordered that the



jurors be, and they hereby are excused until Wednesday, the 15th day of April, 1914, at 10:30 o'clock A. M.; and certain questions having been discussed by Henry O. Willis, Esq., of counsel for defendants, and by Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States; it is, at the hour of 4:48 o'clock P. M., ordered that this cause be, and the same hereby is continued until Wednesday, the 15th day of April, 1914, at 10:30 o'clock A. M., for further trial. [47]

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At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Wednesday, the fifteenth day of April, in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

[Minutes of Trial—April 15, 1914.]

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on this day to be further tried before the Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as

counsel for the United States; defendants being present on bail, with their counsel, Henry O. Willis, Esq.; John P. Doyle, being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called in connection with the call of the roll of the entire panel of term trial jurors, and all the jurors being present in court; and John S. McLaren, one of the defendants, and a witness in their behalf, having resumed the stand for further examination, and having given his testimony; and C. E. Wells, having been called and sworn as a witness on behalf of defendants, and having given his testimony; and court, at the hour of 12:03 o'clock P. M., having taken a recess until the hour of 2 o'clock P. M., of this day;

And now, at the hour of 2 o'clock P. M., the court having reconvened; and defendants, counsel and shorthand reporter being present as before; and the roll of the jury having been called, and all being present; and C. E. Wells, a witness on behalf of [48] defendants, having resumed the stand for further examination, and having given his testimony; and Charles A. Shaw and Oscar Clayton having been respectively called and sworn as witnesses on behalf of defendants, and having given their testimony; and Mary Shiffer, heretofore sworn as a witness herein, having been recalled by defendants for further examination, and having given her testimony; and court, at the hour of 3:20 o'clock P. M., having taken a recess for 10 minutes; and now, at the hour of 3:30 o'clock P. M., court having reconvened; and defendants, counsel and shorthand reporter being

present as before; and the roll of the jury having been called, and all being present; and William B. Edwards, one of the defendants, having been called and sworn as a witness on behalf of said defendants, and having given his testimony; and court, at the hour of 3:55 o'clock P. M., having taken a recess for 10 minutes; and now, at the hour of 4:05 o'clock P. M., court having reconvened; and defendants, counsel and shorthand reporter being present as before; and the roll of the jury having been called, and all being present; and William B. Edwards, one of the defendants, and a witness in their behalf, having resumed the stand for further examination, and having given his testimony; it is, at the hour of 4:30 o'clock P. M., ordered that this cause be, and the same hereby is continued until Thursday, the 16th day of April, 1914, at 10:30 o'clock A. M., for further trial, until which time the jurors are excused. [49]

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At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Thursday, the sixteenth day of April, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

[Minutes of Trial—April 16, 1914.]

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on this day to be further tried before the Court and a jury heretofore duly impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; John P. Doyle being present as shorthand reporter of the testimony and proceedings, and acting as such; defendants being present on bail, with their counsel, Henry O. Willis, Esq.; and the roll of the jury having been called, in connection with the call of the roll of the entire panel of term trial jurors, and all being present in court; and William B. Edwards, one of the defendants, and a witness in their behalf, having resumed the stand for further examination, and having given his testimony; and in connection with the cross-examination of said witness, the Government having offered a complaint, a warrant of arrest and a judgment, which together are admitted in evidence as U. S. Ex. 12; and John McLaren, one of the defendants, and a witness in their behalf, having been recalled for further examination, and having given his testimony; and, in connection with the cross-examination of said witness, the Government having



offered a notice of July 29th, 1911, which is admitted [50] in evidence as U. S. Ex. 13; and J. M. Ocheltree, a witness on behalf of the United States, having been recalled for defendants for further examination, and having given his testimony; and, in connection with the testimony of said witness, defendants having offered an affidavit of James M. Ocheltree, P. H. Bodkin et al., and an envelope, which are together admitted in evidence as Defts. Exhibit "L"; and defendants having rested; and Dudley W. Robinson having been called and sworn as a witness on behalf of the United States in rebuttal, and having given his testimony; and the Government having rested; it is, at the hour of 12:12 o'clock P. M., ordered that the jurors be, and they hereby are, excused until the hour of 2 o'clock P. M., of this day; and court having, at the hour of 12:13 o'clock P. M., taken a recess for 3 minutes; and now, at the hour of 12:16 o'clock P. M., court having reconvened; and defendants and counsel being present as before; and points of law concerning instructions to the jury having been discussed by counsel for the respective parties; and counsel for the Government having waived the provisions of Rule 22 of the Rules of Practice of this court requiring exceptions to the charge of the Court to be handed to the Judge in writing before the jury leave the box; it is, at the hour of 1:05 o'clock P. M., ordered that this cause be, and the same hereby is continued for further trial until the hour of 2 o'clock P. M., of this day.

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No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on at this time to be further tried before the Court and a jury heretofore duly impanelled herein; Duke [51] Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on bail, with their counsel, Henry O. Willis, Esq.; John P. Doyle being present as shorthand reporter of the testimony and proceedings, and acting as such; and the roll of the jury having been called and all being present; and the case having been reopened for further testimony; and D. D. Ocheltree, a witness on behalf of the United States, having been recalled for further examination, and having given his testimony; and said cause having been argued to the jury, on behalf of the Government by Robert O'Connor, Esq., Assistant U. S. Attorney, of counsel for the United States, and on behalf of defendants by Henry O. Willis, Esq., of counsel for defendants; and court, at the hour of 3:36 o'clock P. M., having taken a recess for 7 minutes; and now, at the hour of 3:45 o'clock P. M., court having reconvened; and defendants, counsel and the shorthand reporter being present as before; and the roll of the jury having been called, and all

being present; and said cause having been further argued to the jury on behalf of the Government, in reply, by Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the Government; it is, at the hour of 4:30 o'clock P. M., ordered that this cause be, and the same hereby is continued until Friday, the 17th day of April, 1914, at 10:30 o'clock A. M., for further trial, until which time the jurors are excused. [52]

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At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Friday, the seventeenth day of April, in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

[Minutes of Trial—April 17, 1914.]

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on this day to be further tried before the Court and a jury heretofore impanelled herein; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on bail, with their counsel, Henry O. Willis, Esq.;

John P. Doyle being present as shorthand reporter of the proceedings, and acting as such; and the roll of the jury having been called, in connection with the call of the roll of the entire panel of term trial jurors, and all being present in court; and Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, and Henry O. Willis, Esq., of counsel for defendants having stipulated that counsel may, at any time during this day, except to the charge of the Court, without the presence of the jury, specifying in writing their exceptions, according to the provisions of Rule 22 of the Rules of Practice of this court; and the Court having read to the jury its written instructions; it is ordered that the instructions requested by the Government, and also the instructions requested by defendants be, and they hereby are refused, except in so far as the same may have been [53] embodied in the instructions given by the Court; and the jury, at the hour of 11 o'clock A. M., having retired to consider their verdict; now, on motion of Henry O. Willis, Esq., of counsel for defendants, it is ordered that exceptions be, and they hereby are noted herein in the matter of instructions to the jury, as follows, to wit, that exceptions be, and they hereby are noted, on behalf of defendants, to the instruction given on page 5 of the instructions of the Court reading as follows: "The Court further instructs you, that the said Ocheltree, by virtue of the allowance on June 1st, 1912, at the United States Land Office, Los Angeles, California, of his application previously filed in said office, to wit: May 18th, 1910, to enter as a homestead the land



described in said first count, acquired the right, by the Constitution and laws of the United States, to make settlement and residence upon said land and cultivate the same and in other respects comply with the public land laws of the United States relating to homesteads, so as to earn and procure title to said land''; that exceptions be, and they hereby are noted, on behalf of defendants, to the instruction given on page 7 of the instructions of the Court, reading as follows: "The Court further instructs you, that the said Bodkin, by virtue of the allowance on June 1st, 1912, at the United States Land Office, Los Angeles, California, of his application previously filed in said office, to wit: May 18th, 1910, to enter as a homestead the land described in said second count, acquired the right, by the Constitution and laws of the United States, to make settlement and residence upon said land, and cultivate the same, and in other respects comply with the public land laws of the United States relating to homesteads, so as to earn and procure title to said land''; and that exceptions be, and they hereby are noted, on behalf of defendants, to the refusal of the Court to give the instructions requested by defendants on pages 5 and 6 of their requested instructions, to wit: "You are instructed [54] that under the laws of the United States a right, called a preference right, is created and vested in the successful contestant of any homestead entry made and filed on any public land of the United States. You are further instructed that such preference right as created by law gives to such successful contestant the right, above all others, to enter the lands involved

in the contest, within thirty days after notice of the cancellation of such former entry by the Commissioner of the General Land Office. You are further instructed that, if during the thirty days succeeding such notice the said lands have been and remain withdrawn from all forms of entry, the said preference right becomes extinct and is of no further force nor effect. You are further instructed that no rule, regulation nor decision of any of the officers of the Land Department of the United States can extend such right beyond the thirty days above stated, and that no ruling, action or decision of the Land Department of any of its officers, extending such right, or granting such right, can create or give the successful contestant any preferred right of entry or settlement on such land. And if you believe from the evidence in this case that Patrick H. Bodkin and James M. Ocheltree, respectively secured a preference right as above described but did not exercise it within thirty days after notice of the cancellation by the Commissioner of the General Land Office of the contested entry, by filing an entry upon the land involved in such contests, respectively, then you are instructed that such preference right became extinct, and any ruling or decision, made thereafter, by any of the officers of the Land Department, based upon such preference right, was null and void, and conferred no right upon said Bodkin or said Ocheltree which is embraced in, or protected by Section 19 of the Penal Code of the United States, under which these defendants are indicted, and you must therefore acquit the defendants.” [55]

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

Now, at the hour of 11:52 o'clock, A. M., the jury having been called into court; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on bail, with their counsel, Henry O. Willis, Esq.; John P. Doyle being present as shorthand reporter of the proceedings, and acting as such; and the roll of the jury having been called, and all being present; and the jury having been asked if they have agreed upon a verdict, and having replied that they have not so agreed; it is ordered that the U. S. Marshal for this District take said jurors to some suitable place for their dinner, said dinner for jurors and the accompanying officers to be at the expense of the United States, and that thereafter said Marshal return the jury to their room for further deliberation concerning their verdict.

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No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

The jury having now, at the hour of 3:52 o'clock P. M., come into court; Duke Stone, Esq., and Robert O'Connor, Esq., Assistant U. S. Attorneys, appearing as counsel for the United States; defendants being present on bail with their counsel, Henry O. Willis, Esq.; and the roll of the jury having been called, and all being present; and the jury having been asked if they have agreed upon a verdict, and having through their foreman replied that they [56] have not so agreed, and the jury through their foreman having asked of the Court further instructions, to wit, an instruction as to whether or not they can agree as to five defendants with no verdict as to the remaining defendant; and the jury, at the hour of 3:53 o'clock P. M., having by order of the court been taken back to the jury-room, without further instructions; and the jury, at the hour of 4:10 o'clock P. M., having been by the Court called into court; and defendants and counsel being present as before; John P. Doyle being present as shorthand reporter of the proceedings, and acting as such; and the roll of the jury having been called, and all being present; and the jury having been asked if they still desire to receive said further instruction requested by them, and having replied that they do; and the Court having thereupon further instructed the jury as follows, to wit: "If you cannot agree upon a verdict as to all of the defendants, you may return a verdict as to one or more of them in regard to whom you do agree, and verbally report a disagreement as to the defendant or defendants in



regard to whom you cannot agree''; and the jury, at the hour of 4:13 o'clock P. M., having retired further to consider their verdict; now, at the hour of 4:22 o'clock P. M., come the jury; and the roll of the jury having been called, and all being present; and counsel, defendants and the shorthand reporter being present as before; and the jurors having been asked if they have agreed upon a verdict, and having by their foreman replied that they have so agreed as to five of the defendants, and having been required to state their verdict, and their verdict having been read by the foreman; now, by direction of the Court, said verdict is filed and recorded by the clerk, said verdict being as follows, and the following being the record thereof, to wit: [57]

*In the District Court of the United States, for the Southern District of California, Southern Division.*

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS, ROBERT L. CULPEPPER, JOHN McLAREN, WILLIAM WELLS, LEE WELLS and ARCH ROBISON,

Defendants.

### VERDICT.

We, the jury in the above-entitled cause, find the defendants William B. Edwards and Robert L. Cul-

pepper guilty as charged in the indictment, and the defendants John McLaren, William Wells and Arch Robison, not guilty as charged in the indictment.

Los Angeles, April 17th, 1914.

FRANK H. SMITH,

Foreman.

And said verdict having been read to the jury as so recorded and the jurors having said that it is their verdict; and the jurors having also verbally announced that they cannot agree as to the defendant Lee Wells; and said jurors having also asked the mercy of the Court for defendants William B. Edwards and Robert L. Culpepper; it is ordered that the jurors be, and they hereby are discharged from the case as to defendant Lee Wells for failure to agree; and it is further ordered that said jurors be, and they hereby are excused until Tuesday, the 21st day of April, 1914, at 10:30 o'clock A. M.; and it is further ordered that the defendants John McLaren, William Wells and Arch Robison, found not guilty by the jury, be, and they hereby are discharged; and it is further ordered on motion of Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, and with the consent of Henry O. Willis, Esq., of counsel for defendants, that for the setting of the same down for the trial of defendant, Lee Wells, this cause be, and the same hereby is continued for the term, said defendant Lee Wells to remain under his present [58] bail; and it is further ordered, on motion of Henry O. Willis, Esq., of counsel for defendants, and by consent, that this cause be, and the same hereby is continued until Monday, the

18th day of May, 1914, at 10:30 o'clock A. M., for the sentence of defendants William B. Edwards and Robert L. Culpepper, and also for a motion for a new trial of said defendants, for the presentation of a bill of exceptions, and for such other action as said defendants may be advised to take; and it is further ordered, on motion of Henry O. Willis, Esq., of counsel for defendants, and with the consent of Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, that defendants William B. Edwards and Robert L. Culpepper, remain under their present bail, pending sentence. [59]

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[Verdict.]

*In the District Court of the United States, for the Southern District of California, Southern Division.*

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,  
Plaintiffs,

vs.

WILLIAM B. EDWARDS, ROBERT L. CULPEPPER, JOHN McLAREN, WILLIAM WELLS, LEE WELLS and ARCH ROBISON,

Defendants.

We, the jury in the above-entitled cause, find the defendants William B. Edwards and Robert L. Culpepper, guilty as charged in the indictment, and the

defendants John McLaren, William Wells and Arch Robison not guilty as charged in the indictment.

Los Angeles, April 17th, 1914.

FRANK H. SMITH,

Foreman. [60]

[Indorsed]: "655 Crim. U. S. District Court, Southern District of Calif., Southern Division. United States vs. Wm. B. Edwards et al. Verdict. Filed April 17, 1914. Wm. M. Van Dyke, Clerk. By C. E. Scott, Deputy Clerk." [61]

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**Copy Judgment.**

At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Monday, the eighteenth day of May, in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on at this time to be further heard on defendants' motion for a new trial; Duke



Stone, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; defendants William B. Edwards and Robert L. Culpepper being present on bail, with their counsel, Henry M. Willis, Esq.; and said motion for a new trial having been further argued, in support thereof, by Henry M. Willis, Esq., of counsel for the defendants, and in opposition thereto by Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, and said cause having been submitted to the Court for its consideration and decision on said motion for a new trial and the oral argument thereof; it is now by the Court ordered that defendants' said motion for a new trial be, and the same hereby is denied, to which ruling of the Court, on motion of defendants and by direction of the Court, exceptions are hereby noted herein on behalf of said defendants; and defendants, William B. Edwards and Robert L. Culpepper, having thereupon been called for sentence; and statements [62] in mitigation of sentence having been made by Henry M. Willis, Esq., of counsel for said defendants; and statements concerning sentence having been made by Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States; the Court thereupon pronounces sentence upon said two defendants for the offense of which they now stand convicted, namely: the offense of conspiracy to injure, oppress, etc., citizens in the exercise of civil rights in violation of Section 19 of the United States Criminal Code, as follows, to wit: The Judgment of the Court is, that the defendants, William B. Edwards and Robert L. Culpepper pay

a fine of one hundred (100) dollars each, and that each of said two defendants be imprisoned for the term of four (4) months in the county jail of Riverside County, California; and said defendants having been remanded to the custody of the U. S. Marshal; it is, on motion of counsel for the Government, ordered that the bail of each of said defendants Edwards and Culpepper, to be given on filing herein and allowance of petition for writ of error, be, and the same hereby is fixed, at \$3,000.00; whereupon assignments of error and a petition for writ of error are filed on behalf of said two defendants and an order allowing writ of error and supersedeas and fixing bail is signed and filed in open court; thereupon, on motion of Henry M. Willis, Esq., of counsel for defendants, it is ordered that defendants be, and hereby are granted thirty (30) days within which to file their proposed bill of exceptions herein.

(Margin.) Amended June 16, 1914, per minute order of June 16, 1914. C. E. Scott, Deputy Clerk.  
[63]

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**[Certificate of Clerk to Judgment-roll.]**

*In the District Court of the United States, in and for  
the Southern District of California, Southern  
Division.*

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

I, Wm. M. Van Dyke, Clerk of the District Court of the United States of America, in and for the Southern District of California, do hereby certify the foregoing to be a true copy of the Judgment entered in the above-entitled action; and I do further certify that the foregoing papers hereto annexed, constitute the Judgment-roll in said action.

Attest my hand and the seal of said District Court this 21st day of May, A. D. 1914.

[Seal]

WM. M. VAN DYKE,

Clerk.

By Leslie S. Colyer,

Deputy Clerk. [64]

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At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Tuesday, the thirty-first day of March, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

[Minutes of Trial—March 31, 1914.]

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.

This cause coming on this day for the trial of defendants William B. Edwards, Robert L. Culpepper, John McLaren, William Wells, and Arch Robinson, who are present in Court on bail, before the Court and a jury to be impanelled; Duke Stone, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; now, on motion of Henry O. Willis, Esq., and it appearing that Robert L. Handley, of counsel for defendants, consents thereto, it is ordered that J. O. Phillips, Esq., and Henry O. Willis, Esq., be, and they hereby are associated with Robert L. Hanley, Esq., as counsel for defendants; whereupon, good cause appearing therefor, it is ordered that this cause be, and the same hereby is, continued until Wednesday, April 1, 1914, at 10:30 A. M. [65]

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At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Wednesday, the first day of April, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

[Minutes of Trial—April 1, 1914.]

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.



This cause coming on this day for the trial of defendants William B. Edwards, Robert L. Culpepper, John McLaren, Wm. Wells and Arch Robison, who are all present in court, on bail, before the Court and a jury to be impanelled; Duke Stone, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; J. O. Phillips, Esq., and Henry O. Willis, Esq., appearing as counsel for defendants; now, on motion of Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, and with the consent of Henry O. Willis, Esq., of counsel for defendants, it is ordered that this cause be, and the same hereby is continued until Thursday, the 2d day of April, A. D. 1914, at 10:30 o'clock A. M., for said trial. [66]

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*In the District Court of the United States, in and for  
the Southern District of California, Southern  
Division.*

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS, ROBERT L. CUL-  
PEPPER et als.,

Defendants.

**Motion for a New Trial.**

Come now the defendants, William B. Edwards and Robert L. Culpepper, and move the Court and each of them moves the Court to set aside the verdict heretofore on the 17th day of April, 1914, rendered

herein, and for a new trial in this case on the following grounds:

I.

That the Court misdirected the jury in matters of law.

II.

That the Court erred in decisions of questions of law arising during the course of the trial.

III.

That the verdict is contrary to the law.

IV.

That the verdict is contrary to the evidence.

V.

That the verdict is contrary to the law and the evidence.

VI.

That the evidence is insufficient to justify the verdict. [67]

This motion is made upon the files, records, and papers in this case and the testimony taken at the trial thereof.

HENRY M. WILLIS,

J. O. PHILLIPS,

Attorneys for the Defendants.

[Endorsed]: No. 655—Crim. United States District Court, Southern District of California, Southern Division. The United States of America, Plaintiffs, vs. William B. Edwards et al., Defendants. Motion for New Trial. Service of Within Motion by Copy Admitted this 18th day of May, 1914. Robert O'Connor, Asst. United States Attorney. Filed May 18, 1914. Wm. M. Van Dyke, Clerk. By Leslie S.

Colyer, Deputy. Henry M. Willis, 412-413 Katz Block, San Bernardino, California, Attorneys at Law. [68]

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At a stated term, to wit, the January Term, A. D. 1914, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the courtroom thereof, in the city of Los Angeles, on Tuesday, the sixteenth day of June, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable OLIN WELLBORN, District Judge.

[Minutes of Court—June 16, 1914—Re Correction of Minutes, etc.]

No. 655—CRIM. S. D.

THE UNITED STATES OF AMERICA,  
Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,  
Defendants.

Duke Stone, Esq., Assistant U. S. Attorney, appearing as counsel for the United States; Henry M. Willis, Esq., appearing as counsel for defendants; on motion of Henry M. Willis, Esq., of counsel for the defendants, and with the consent of Duke Stone, Esq., Assistant U. S. Attorney, of counsel for the United States, it is ordered that the minutes of this court in this cause made and entered on May 18th, 1914, containing proceedings and orders upon hearing of a motion for a new trial and the sentence of

said defendants be corrected, to conform to the facts, by adding, at the end thereof, the following, to wit: "Thereupon, on motion of Henry M. Willis, Esq., of counsel for defendants, it is ordered that defendants be, and hereby are granted thirty (30) days within which to file their proposed bill of exceptions herein"; said amendment and correction be made by the clerk, and attested by him with a reference to this order; and it is further ordered that the copy of said minute order issued by the clerk and incorporated in the judgment-roll in this cause be likewise corrected in accordance with the [69] foregoing said correction to be made by the clerk and attested by him with a reference to this order.

Thereupon, on motion of Henry M. Willis, Esq., of counsel for defendants, and pursuant to the stipulation of the parties, by their solicitors of record, now filed in open court, it is ordered that defendants be, and they hereby are granted until and including August 1st, 1914, within which to prepare and file their proposed bill of exceptions herein, and thereupon an order accordingly is signed in open court. [70]

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*In the District Court of the United States, for the  
Southern District of California, Southern Division.*

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS et al.,

Defendants.



**Order Fixing Time to Prepare Bill of Exceptions.**

Pursuant to the written stipulation signed by counsel for the respective parties in the above-entitled action and this day filed herein, good cause appearing therefor:

IT IS HEREBY ORDERED that the defendants William B. Edwards and Robert L. Culpepper in the above-entitled cause may have to and including the first day of August, 1914, within which to prepare, serve and file their proposed Bill of Exceptions.

OLIN WELLBORN,

District Judge.

June 16, 1914.

[Endorsed]: Original. No. 655—Crim. In the District Court of the United States, for the Southern District of California, Southern Division. The United States of America, Plaintiffs, vs. William B. Edwards et als., Defendants. Order Fixing Time to Prepare Bill of Exceptions. Filed June 16, 1914. Wm. M. Van Dyke, Clerk. By C. E. Scott, Deputy Clerk. Henry M. Willis, 412-413 Katz Block, San Bernardino, California, Attorneys at Law. [71]

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*In the District Court of the United States, in and for  
the Southern District of California, Southern  
Division.*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM B. EDWARDS and ROBERT L. CUL-  
PEPPER et al.,

Defendants.

**Engrossed Bill of Exceptions.**

Be it remembered that heretofore, to wit, on the 11th day of July, 1913, the Grand Jury of the United States in and for the Southern District of California, Southern Division, did find and return into the above-entitled court its indictment against the defendants William B. Edwards, Robert L. Culpepper, John McLaren, Lee Wells, William Wells and Arch Robison, for violation of Section 19, Federal Penal Code of 1910; that thereafter the said defendants were duly arraigned upon the said indictment and duly entered their pleas of not guilty thereto; that thereafter the said cause was duly set for trial in the above-entitled court to be tried on the 31st day of March, 1914; that thereafter, upon the second day of April, 1914, said cause came on duly and regularly for trial, the Government being represented by Hon. Duke Stone and Robert O'Connor, Assistant United States District Attorneys for the Southern District of California, and the defendants being represented by Messrs. Henry M. Willis and J. O. Phillips. Thereupon a jury to try the cause was duly and regularly empanelled and testimony, both oral and written, was offered and introduced on the part of the United States of America, and by [72] the defendants on their own behalf; that the taking of the testimony herein referred to was duly and regularly proceeded with, and occupied the time of the Court from the second day of April, 1914, to the 17th day of April, 1914; and that the defendants only present so much

of the evidence taken on the trial of this cause as will enable the Honorable Circuit Court of Appeals to pass upon the question as to whether or not the Court misdirected the jury in matters of law and as to whether or not the Court erred in refusing certain instructions, the error alleged by plaintiffs in error alone consisting in the giving and refusing of certain instructions, as hereinafter set out in this bill of exceptions; that thereupon, after the argument of counsel, the Court duly and regularly gave its charge to the jury and submitted the case to them for their decision, as follows, to wit:

“Gentlemen of the Jury:

“This indictment was found under Section 19 of the United States Criminal Code, which is, in substance, as follows: ‘If two or more persons conspire to injure, oppress, threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States . . . they shall be’ punished as in said Section prescribed.

“There are two counts in the indictment.

“The charge in the first count, comprehensively stated, is, that the defendants conspired to injure, oppress, threaten and intimidate a certain citizen of the United States, to wit, one James M. Ocheltree, in the free exercise and enjoyment of the right and privilege secured to him by the Constitution and laws of the United States to make effectual the homestead entry in said first count mentioned by entering into possession of, making settlement upon and residing upon, cultivating and [73] improving the land



embraced in said homestead entry, and in other respects complying with the public land laws of the United States relating to homesteads, and thereby earning and procuring patent to land embraced in said homestead entry.

“As the indictment has been read in full to you and besides will be with you in the jury-room, it is unnecessary here to recite its contents at length.

“It is admitted that said Ocheltree is, and at all times mentioned in the indictment was, a citizen of the United States, and that Patrick H. Bodkin, the person named in the second count, is, and at all times mentioned in the indictment was, a citizen of the United States.

“You will need to consider, with reference to the first count, the following among other questions:

“Was there a conspiracy to injure, oppress, threaten or intimidate said Ocheltree, as alleged in the first count?

“If there was such a conspiracy, were these defendants, or any of them parties to it:

“If the evidence satisfies you beyond a reasonable doubt of the existence of said conspiracy, and, that all the defendants were parties to said conspiracy, you will find them guilty as charged in the first count; or, if the evidence satisfies you beyond a reasonable doubt of the existence of said conspiracy and, that some of the defendants participated in such conspiracy, but fails to so satisfy you as to others, you will on the first count convict the defendants whom you find participated in such conspiracy, and acquit the others. If, however, the evidence fails to satisfy



you beyond a reasonable doubt of the existence of said conspiracy, you will find the defendants not guilty on the first count.

“The Court further instructs you, that the said Ocheltree, by virtue of the allowance on June 1st, 1912, at the United [74] States Land Office, Los Angeles, California, of his application previously filed in said office, to wit, May 18th, 1910, to enter as a homestead the land described in said first count, acquired the right, by the Constitution and laws of the United States, to make settlement and residence upon said land and cultivate the same and in other respects comply with the public land laws of the United States relating to homesteads, so as to earn and procure title to said land.

“The charge in the second count, comprehensively stated, is, that the defendants conspired to injure, oppress, threaten and intimidate a certain citizen of the United States, to wit: one Patrick H. Bodkin, in the free exercise and enjoyment of the right and privilege secured to him by the Constitution and laws of the United States to make effectual the homestead entry in said second count mentioned by entering into possession of, making settlement upon and residing upon, cultivating and improving the land embraced in said homestead entry, and in other respects complying with the public land laws of the United States relating to homesteads, and thereby earning and procuring patent to the land embraced in said homestead entry.

“If the evidence satisfies you beyond a reasonable doubt of the existence of said conspiracy and that all

the defendants were parties to said conspiracy, you will find them guilty as charged in the second count; or, if the evidence satisfies you beyond a reasonable doubt of the existence of said conspiracy, and, that some of the defendants participated in said conspiracy, but fails to so satisfy you as to the others, you will on said second count convict the defendants whom you find participated in said conspiracy and acquit the others. If, however, the evidence fails to satisfy you beyond a reasonable doubt of the existence of said conspiracy, you will find the defendants not guilty on said second count. [75]

“The Court further instructs you, that the said Bodkin, by virtue of the allowance on June 1st, 1912, at the United States Land Office, Los Angeles, California, of his application previously filed in said office, to wit: May 18th, 1910, to enter as a homestead the land described in said second count, acquired the right, by the Constitution and laws of the United States, to make settlement and residence upon said land and cultivate the same and in other respects comply with the public land laws of the United States relating to homesteads, so as to earn and procure title to said land.

“The Court further charges you, that a conspiracy is a combination between two or more persons to do a criminal or unlawful act, or a lawful act by criminal or unlawful means.

“From this definition of conspiracy, it follows, of course, that there can be no conspiracy where on individual acts by and for himself only.

“A mere mental purpose cannot justify a convic-

tion of conspiracy. A common design is of the essence of the charge.

“A person, therefore, in order to become a party to a conspiracy, must combine with someone else to effect the object of the conspiracy by the means agreed upon.

“The Court further instructs you, that, to constitute a conspiracy, it is not necessary, that there should be an explicit or formal agreement between the alleged conspirators.

“Though the common design is of the essence of the charge, it is not necessary to prove that the defendants came together and actually agreed in terms to have that design, and to pursue it by common means. If it be proved that the defendants pursued by their acts the same object, often by the same means, one performing one part, and another another part of the same so as to complete it, with a view of attaining the same object, the jury will be justified in the conclusion, that they were [76] engaged in a conspiracy to effect that object.

“The evidence in proof of the conspiracy may be, and from the nature of the case generally will be, circumstantial.

“The Court further instructs you, that, where circumstantial evidence is relied upon to establish the conspiracy, or any other fact, it is not only necessary, that all the circumstances concur to show the existence of the conspiracy or other fact sought to be proved, but such circumstantial evidence must be inconsistent with any other rational conclusion.

“If the evidence can be reconciled either with the



theory of innocence or with guilt, the law requires that the defendant be given the benefit of the doubt, and that the theory of innocence be adopted.

“The Court further instructs you, that, in determining the question of the formation or existence of a conspiracy, the acts and declarations of the persons accused may, among other circumstances, be looked to and considered by the jury, but guilt cannot be fastened upon any person by the declarations or statements, oral or written, made by others. To establish the connection of anyone of the defendants with the conspiracy, such connection must be shown by facts and circumstances, or by his own acts, conduct or declarations, independent of the declarations of others, and until this fact is thus established, he is not bound by the declarations or statements of others.

“The Court further instructs you, that, while the declarations of a co-conspirator cannot prove the existence of the conspiracy itself, any declarations made by one of the conspirators during the existence, and in furtherance of the unlawful combination, when proven, is not only evidence against him, but is evidence against the other conspirators, who, if the combination is proved, are as much responsible for such declarations as if made by themselves. [77]

“You must not, however, permit yourselves to use against either defendant anything said or done outside the presence of such defendant, unless you believe from the evidence beyond a reasonable doubt, that at the time the things were said or done a conspiracy existed between the party saying and doing the things and the defendant to be affected thereby.



In such a case it is only those things said or done in furtherance of the objects of the conspiracy which are chargeable against the other member, or members, of such conspiracy.

“The Court further instructs you, that you are the sole judges of the facts and the credibility of witnesses, and, in passing upon the credibility of witnesses, you may consider, among other things, their intelligence, their relation to the controversy and to the parties; the interest, if any, they have in the result of the trial; their prejudices and motives, their hopes and fears; their bias or impartiality; the reasonableness, or otherwise, of the statements they make,—together with their manner upon the witness-stand, and should give to their testimony such weight as you believe it entitled to receive.

“If a witness is shown knowingly to have testified falsely on the trial touching any material matter here involved, the jury may distrust his testimony in other respects, and are at liberty to reject the whole or any part of it.

“Testimony has been introduced as to the good character of the defendants. On this subject, the court charges you, that the good character of a person accused of a crime, when proven, is itself a fact in the case; it must be considered in connection with all the other facts and circumstances adduced in evidence on the trial, and if, after such consideration, the jury are not satisfied, beyond a reasonable doubt, of the defendants’ guilt, they should acquit them. If, however, they are so satisfied from all evidence in the case, that the [78] defendants are guilty, they

should convict them, notwithstanding proof of good character.

“The Court further instructs you, that the finding of an indictment raises no presumption whatever of a defendant’s guilt, but the burden of proof is on the Government, and that the law presumes the defendant innocent until proven guilty beyond a reasonable doubt, and, that this rule applies to every material element of the offense charged. The Court further instructs you, that a reasonable doubt is one which is reasonable in view of all the evidence, and if, after an impartial comparison and consideration of all the evidence, you can candidly say that you are not satisfied of the defendant’s guilt, you have a reasonable doubt; but if, after such impartial comparison and consideration of all the evidence, you can truthfully say that you have an abiding conviction of the defendant’s guilt, such as you would be willing to act upon in the more weighty and important matters relating to your own affairs, you have no reasonable doubt.”

That thereafter, to wit, on April 17, 1914, said jury duly and regularly returned into court their verdict, finding the defendants William B. Edwards and Robert L. Culpepper guilty as charged in the indictment; that the time for sentencing said defendants was duly continued by the Court until the 18th day of May, 1914, upon which date the said defendants William B. Edwards and Robert L. Culpepper filed in said court their motion for a new trial; that thereupon, on the said 18th day of May, 1914, the Court

duly and regularly heard the motion of said defendants for a new trial, and duly and regularly made its order denying said motion. Thereupon the Court duly and regularly pronounced sentence upon the defendants William B. Edwards and Robert L. Culpepper, adjudging that *he* and each of them should pay a fine in the sum of one hundred dollars and be [79] imprisoned in the county jail of the County of Riverside for the period of four months. Thereupon, on the said 18th day of May, 1914, the defendants and each of them duly and regularly filed in said court their assignment and specification of errors in words and figures as follows, to wit:

*“In the District Court of the United States, in and for the Southern District of California, Southern Division.*

“THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

“WILLIAM B. EDWARDS, ROBERT L. CULPEPPER et al.,

Defendants.

“ASSIGNMENT OF ERRORS.

“William B. Edwards and Robert L. Culpepper, the defendants in the above-entitled cause, and plaintiffs in error herein, having petitioned for an order from said Court permitting them and each of them to procure a Writ of Error from this Court, directed from the United States Circuit Court of Appeals for

the Ninth Circuit, from the judgment and sentence made and entered in said cause against the said William B. Edwards and Robert L. Culpepper and each of them, plaintiffs in error, and petitioners herein, now make and file, and each of them now makes and files with their said petition the following assignments of errors herein, upon which they and each of them will rely for a reversal of said judgment and sentence upon said writ, and which said errors and each and every of them, are to the great detriment, injury and prejudice of the said defendants and each of them, and in violation of the rights conferred upon them and each of them by law; and they and each of them says that in the record of proceedings in the above-entitled cause, upon the hearing and determination thereof, in the District Court of the United States for the Southern District of California, Southern Division, there is manifest error in this, to wit:

“1. That the District Court erred in refusing to give the [80] following instruction requested by the said defendants, to wit:

“ ‘You are instructed that under the laws of the United States a right, called a preference right, is created and vested in the successful contestant of any homestead entry made and filed on any public land of the United States.

“ ‘You are further instructed that such preference right as created by law gives to such successful contestant the right, above all others, to enter the lands involved in the contest, within thirty days after notice of the cancellation of such former entry by the Com-



missioner of the General Land Office.

“ ‘You are further instructed that, if during the thirty days succeeding such notice the said lands have been and remain withdrawn from all forms of entry, the said preference right becomes extinct and is of no further force nor effect.

“ ‘You are further instructed that no rule, regulation nor decision of any of the officers of the Land Department of the United States can extend such right beyond the thirty days above stated, and that no ruling, action or decision of the Land Department or any of its officers, extending such right, or granting such right, can create or give the successful contestant *and* preferred right of entry or settlement on such land. And if you believe from the evidence in this case that Patrick H. Bodkin and James L. Ocheltree, respectfully, secured a preference right as above described, but did not extend it within thirty days after notice of the cancellation by the Commissioner of the General Land Office of the contested entry, by filing an entry upon the land involved in such contests, *respectfully*, then you are instructed that such preference right becomes extinct, and any ruling or decision, made thereafter, by any of the officers of the Land Department, based upon such preference right, was null and void and conferred no right upon said Bodkin, or said Ocheltree which is embraced in, or protected by Section 19 of the [81] Penal Code of the United States, under which these defendants are indicted, and you must therefore acquit the defendants.’

“2. That the said District Court erred in giving to the jury the following instruction, to wit:

“ ‘The Court further instructs you that the said Ocheltree, by virtue of the allowance on June 1st, 1912, at the United States Land Office, Los Angeles, California, of his application previously filed in said office, to wit, May 18th, 1910, to enter as a homestead the land described in said first count, acquired the right, by the Constitution and laws of the United States, to make settlement and residence upon said land and cultivate the same and in other respects comply with the public land laws of the United States relating to homesteads, so as to earn and procure title to said land.’

“3. That the said District Court erred in giving to the jury the following instruction, to wit:

“ ‘The Court further instructs you, that the said Bodkin, by virtue of the allowance on June 1st, 1912, at the United States Land Office, Los Angeles, California, of his application previously filed in said office, to wit, May 18th, 1910, to enter as a homestead the land described in said second count, acquired the right, by the Constitution and laws of the United States, to make settlement and residence upon said land and cultivate the same and in other respects comply with the public land laws of the United States relating to homesteads, so as to earn and procure title to said land.’

“4. That the said District Court erred in overruling the motion for a new trial and not allowing the same.

“5. That the said District Court erred in entering judgment and in pronouncing sentence against the defendants William B. Edwards and Robert L. Culpepper.

“HENRY M. WILLIS,

“J. O. PHILLIPS,

“Attorneys for Plaintiffs in Error. [82]

“We hereby certify that the foregoing assignment of errors are made on behalf of the petitioners for Writ of Error herein, and are in our opinion, well taken, and the same now constitute Assignment of Errors upon the writ prayed for.

“HENRY M. WILLIS,

“J. O. PHILLIPS,

“Attorneys for said Plaintiffs in Error.”

That concurrently therewith the defendants filed their petition for a writ of error, which petition for a writ of error was upon said date allowed by said Court. That the Court at the time of the issuing of said writ of error fixed a *supersedeas* bond upon appeal in the sum of three thousand dollars to be duly given by the defendant William B. Edwards, and a similar bond by the defendant Robert L. Culpepper. That thereupon the defendants and each of them duly gave and filed in the said court his said *supersedeas* bond in the sum of three thousand dollars, which was duly approved and allowed by the said Court. That thereupon on the said 18th day of May, 1914, a writ of error was duly issued in said cause, returnable before the United States Circuit Court of Appeals for the Ninth Circuit. That thereupon, upon said date, a citation on said writ of error was duly issued.



That thereupon the Court duly and regularly entered its orders in said cause allowing the said defendants further time within which to prepare, serve and file their bill of exceptions in said cause, and time within which to file the record on appeal in said cause with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

That upon the trial of said cause testimony was offered and received establishing the following facts:

That on the 17th day of July, 1902, the lands described in the indictment herein, among other lands, were public lands of the United States. [83]

That on the 17th day of July, 1902, the said lands described in the indictment, together with other lands in the neighborhood thereof, were duly withdrawn from public entry by order of the Land Department of the United States, under and by virtue of an Act of Congress, approved June 17, 1902, and commonly known as the Reclamation Act; said lands being then withdrawn under what was commonly called and known as "Second Form Withdrawal."

That thereafter, on September 12, 1903, the said lands described in the indictment, together with other lands in the neighborhood thereof, were duly withdrawn by order of the Land Department of the United States, under and by virtue of the said Act of June 17, 1902, and known and called the Reclamation Act, from all forms of entry, being withdrawn under what was and is commonly known and called the "First Form Withdrawal."

That prior to either of said withdrawals, the said land described in count number one of said indict-



ment, to wit, the southwest quarter of section 12, township 7 south, range 22 east, San Bernardino base and meridian, had been duly entered upon by one Danford Arnold, under the provisions of the Homestead Law of the United States.

That prior to the withdrawal of the said land described in count number two in said indictment, to wit, the northeast quarter of section 11, township 7 south, range 22 east, San Bernardino base and meridian, under the first form withdrawal as hereinbefore stated, entry had been duly made thereon by one William B. Edwards, defendant herein, under the Homestead Laws of the United States.

That while the said lands described in count number one of said indictment were still withdrawn from all forms of entry under the first form withdrawal above mentioned, one J. M. Ocheltree duly filed a contest in the Land Office of the United [84] States at Los Angeles, contesting the entry upon said land of the said Danford Arnold.

That hearing was duly had thereon in the said local land office and the said contest was thereupon duly forwarded to the Commissioner of the General Land Office at Washington, and by him decided in favor of the said Ocheltree on the 30th day of September, 1908, and on said day the said Commissioner duly cancelled the said entry of Danford Arnold and awarded to the said J. M. Ocheltree a preference right to make entry thereon under the laws of the United States.

That notice of the decision of said Commissioner was duly served upon the said J. M. Ocheltree on the

— day of October, 1908.

That while the said lands described in count number 2 of said indictment were still withdrawn from all forms of entry under the first form withdrawal above mentioned, one Patrick H. Bodkin duly filed a contest in the Land Office of the United States at Los Angeles, contesting the entry upon said land of the said William B. Edwards.

That hearing was duly had thereon in the said local land office, and the said contest was duly forwarded to the Commissioner of the General Land Office at Washington, and by him decided in favor of the said Patrick H. Bodkin, on the 25th day of June, 1909, the said Commissioner by his decision holding the said homestead entry of the said William B. Edwards for cancellation; and notice of said decision was duly given to the said Patrick H. Bodkin prior to the first day of January, 1910.

That thereafter the said William B. Edwards took an appeal from said decision to the Secretary of the Interior, and on the 19th day of April, 1910, the then Secretary of the Interior made an order cancelling the said homestead entry of said [85] William B. Edwards upon said lands, and awarded to the said Patrick H. Bodkin a preference right to enter upon said land.

That on the 10th day of January, 1910, by an order duly made and entered by the Land Department of the United States all of the said lands described in the indictment herein, among other lands, were restored to public settlement on April 18, 1910, and to public entry on May 18, 1910.

That on April 18, 1910, the said Robert L. Culpepper entered upon the said lands described in count number 1 of the indictment herein, and that said Robert L. Culpepper, up to and including the time of the alleged offense, and for some time thereafter, remained upon said lands.

That on May 18, 1910, said Robert L. Culpepper duly filed his application for a homestead upon said land in the local land office at Los Angeles, California.

That on the same day, to wit, May 18, 1910, said J. M. Ocheltree filed his application for a homestead upon said land described in count number one of the indictment herein, upon the basis and by virtue of the preference right theretofore granted him by the Land Department of the United States, as hereinbefore described.

That on April 18, 1910, the said William B. Edwards settled upon the said lands described in count number 2 of said indictment herein.

That on May 18, 1910, said William B. Edwards duly filed his application for a homestead upon said land described in count number 2 of the indictment herein.

That on May 18, 1910, one Patrick H. Bodkin filed his application to homestead said land described in count number 2 of the indictment herein, upon the basis and by virtue of the preference right granted him by the Land Department of the United States, as hereinbefore described. [86]

That prior to April 18, 1910, the said Robert L. Culpepper had settled upon and was residing on the



lands described in count number 1 of said indictment; that prior to April 18, 1910, the said William B. Edwards had settled upon and was residing on the lands described in count number 2 of said indictment, under and by virtue of a homestead entry duly filed in the local Land Office at Los Angeles on December 1st, 1902.

That on the 18th day of May, 1910, the said applications for homestead of said Culpepper, Ocheltree, Edwards and Bodkin, among others, were duly suspended by the Land Department of the United States, pending the settlement of a contest between the State of California and the United States Government as to the character and disposition of the said lands.

That on the 22d day of May, 1912, by an order duly made and entered the said lands were again restored to public entry.

That on June first, 1912, the homestead application of said William B. Edwards was cancelled by the Land Department of the United States, and the said Bodkin application was allowed, under and by virtue of his preference right heretofore described.

That on June 3, 1912, the said Culpepper application for homestead was cancelled by the Land Department of the United States, and the said Ocheltree application was allowed, under and by virtue of the preference right heretofore described.

That on the 6th day of November, 1912, the said J. M. Ocheltree attempted to make settlement and residence on the said lands described in count number 1 of said indictment under and by virtue of the



decision of the Land Department awarding him the said preference right, heretofore described, the said attempted settlement of said J. M. Ocheltree being within the six months period allowed by law for making settlement.

That on the 25th day of November, 1912, the said Patrick H. Bodkin attempted to make settlement and residence on the lands [87] described in count number 2 of said indictment, under and by virtue of the decision of the Land Department granting him a preference right, as heretofore described, the said attempted settlement of said Patrick H. Bodkin being within the six months period allowed by law for making settlement.

That during all the time after the filing of the application for homestead by the said J. M. Ocheltree and by the said Patrick H. Bodkin, respectively, the said Robert L. Culpepper and William B. Edwards, respectively, were contesting in the Land Department of the United States, by and through the regular means and rules of said department the right of the said Ocheltree and the said Bodkin, respectively, to perfect their homestead application upon the respective pieces of land as hereinbefore described; and that during all of the time after the said 18th day of May, 1910, up to the time of the filing of the indictment of this action, to wit, July 11, 1913, the said Edwards and the said Culpepper were maintaining their respective contentions for the right to perfect their homestead applications, respectively, in the Land Department of the United States, as hereinbefore described; and that during all of said time

the said Edwards and the said Culpepper actually maintained their residence, respectively, upon the respective pieces of land heretofore described, and upon which they had respectively filed their respective homestead applications.

The defendants William B. Edwards and Robert L. Culpepper hereby present the foregoing as their proposed bill of exceptions herein, and respectfully ask that the same may be allowed.

HENRY M. WILLIS,  
J. O. PHILLIPS,  
Attorneys for Said Defendants. [88]

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*In the District Court of the United States, in and for the Southern District of California, Southern Division.*

No. 655—CRIM.

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.

WILLIAM B. EDWARDS and ROBERT L. CULPEPPER et al.,  
Defendants.

**Stipulation [Re Engrossed Bill of Exceptions, etc.].**

It is hereby stipulated by and between Albert Schoonover, United States Attorney for the Southern District of California, and Duke Stone, Assistant United States Attorney, attorneys for the plaintiff above named, and Henry M. Willis and J. O. Phillips, attorneys for the defendants William B.

Edwards and Robert L. Culpepper, above named, that the foregoing Engrossed Bill of Exceptions is a true and correct bill of exceptions in the above-entitled case, and that the same may be settled and allowed by the Court.

ALBERT SCHOONOVER,

United States Attorney.

DUKE STONE,

Assistant United States Attorney.

HENRY M. WILLIS,

J. O. PHILLIPS,

Attorneys for Said Defendants. [89]

The foregoing Bill of Exceptions having been duly presented to the Court, the same is hereby duly allowed and signed and made a part of the records in this case.

Dated this 15th day of October, 1914.

OLIN WELLBORN,

Judge. [90]

[Endorsed]: "No. 655—Crim. In the District Court of the United States, in and for the Southern District of California, Southern Division. United States of America, Plaintiff, vs. William B. Edwards and Robert L. Culpepper et al., Defendants. Engrossed Bill of Exceptions. (Original.) Filed Oct. 19, 1914. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Henry M. Willis, 412-413 Katz Block, San Bernardino, California, Attorneys at Law." [91]

*In the District Court of the United States, in and  
for the Southern District of California, South-  
ern Division.*

THE UNITED STATES OF AMERICA,  
Plaintiffs,

vs.

WILLIAM B. EDWARDS, ROBERT L. CUL-  
PEPPER et al.,

Defendants.

**Assignment of Errors.**

William B. Edwards and Robert L. Culpepper, the defendants, in the above-entitled cause, and plaintiffs in error herein, having petitioned for an order from said Court permitting them and each of them to procure a Writ of Error from this Court, directed from the United States Circuit Court of Appeals for the Ninth Circuit, from the judgment and sentence made and entered in said cause against the said William B. Edwards and Robert L. Culpepper and each of them, plaintiffs in error, and petitioners herein, now make and file, and each of them now makes and files with their said petition the following assignments of errors herein, upon which they and each of them will rely for a reversal of said judgment and sentence upon said writ, and which said errors and each and every of them, are to the great detriment, injury and prejudice of the said defendants and each of them, and in violation of the rights conferred upon them and each of them by law; and



they and each of them says that in the record of proceedings in the above-entitled cause, upon the hearing and determination thereof, in the District Court of the United States for the Southern District of California, Southern Division, there is manifest error in this, to wit:

1. That the District Court erred in refusing to give the [92] following instruction requested by the said defendants, to wit:

“You are instructed that under the laws of the United States a right, called a preference right, is created and vested in the successful contestant of any homestead entry made and filed on any public land of the United States.

“You are further instructed that such preference right as created by law gives to such successful contestant the right, above all others, to enter the lands involved in the contest, within thirty days after notice of the cancellation of such former entry by the Commissioner of the General Land Office.

“You are further instructed that, if during the thirty days succeeding such notice the said lands have been and remain withdrawn from all forms of entry, the said preference right becomes extinct and is of no further force nor effect.

“You are further instructed that no rule, regulation nor decision of any of the officers of the Land Department of the United States can extend such right beyond the thirty days above stated, and that no ruling, action or decision of the Land Department or any of its officers, extending such right, or granting such right, can create or give the successful con-

testant any preferred right of entry or settlement on such land. And if you believe from the evidence in this case that Patrick H. Bodkin and James M. Ocheltree, respectively, secured a preference right as above described but did not exercise it within thirty days after notice of the cancellation by the Commissioner of the General Land Office of the contested entry, by filing an entry upon the land involved in such contests, respectively, then you are instructed that such preference right became extinct, and any ruling or decision, made thereafter, by any of the officers of the Land Department, based upon such preference right, was null and void and conferred no right upon said Bodkin or said Ocheltree which is embraced in, or protected by Section 19 of the Penal Code of the United States, [93] under which these defendants are indicted, and you must therefore acquit the defendants.”

2. That the said District Court erred in giving to the jury the following instruction, to wit:

“The Court further instructs you, that the said Ocheltree, by virtue of the allowance on June 1st, 1912, at the United States Land Office, Los Angeles, California, of his application previously filed in said office, to wit, May 18th, 1910, to enter as a homestead the land described in said first count, acquired the right, by the Constitution and laws of the United States, to make settlement and residence upon said land and cultivate the same and in other respects comply with the public land laws of the United States relating to homesteads, so as to earn and procure title to said land.”

3. That the said District Court erred in giving to the jury the following instruction, to wit:

“The Court further instructs you, that the said Bodkin, by virtue of the allowance on June 1st, 1912, at the United States Land Office, Los Angeles, California, of his application previously filed in said office, to wit, May 18th, 1910, to enter as a homestead the land described in said second count, acquired the right, by the Constitution and laws of the United States, to make settlement and residence upon said land and cultivate the same and in other respects comply with the public land laws of the United States relating to homesteads, so as to earn and procure title to said land.”

4. That the said District Court erred in overruling the motion for a new trial and not allowing the same. [94]

5. That the said District Court erred in entering judgment and in pronouncing sentence against the defendants William B. Edwards and Robert L. Culpepper.

HENRY M. WILLIS,

J. O. PHILLIPS,

Attorneys for Said Plaintiffs in Error.

We hereby certify that the foregoing Assignment of Errors are made on behalf of the petitioners for Writ of Error herein, and are in our opinion, well taken, and the same now constitute Assignment of Errors upon the writ prayed for.

HENRY M. WILLIS,

J. O. PHILLIPS,

Attorneys for Said Plaintiffs in Error. [95]

[Indorsed]: "No. 655—Crim. United States District Court, Southern District of California, Southern Division. The United States of America, Plaintiffs, vs. William B. Edwards, et al., Defendants. Assignment of Errors. Willis & Guthrie, 412-413 Katz Block, San Bernardino, California, Attorneys at Law." [96]

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*In the District Court of the United States, in and for  
the Southern District of California, Southern  
Division.*

THE UNITED STATES OF AMERICA,  
Plaintiffs,

vs.

WILLIAM B. EDWARDS, ROBERT L. CUL-  
PEPPER et als.,

Defendants.

**Petition for Writ of Error.**

Your petitioners, William B. Edwards and Robert L. Culpepper, defendants in the above-entitled cause, bring and each of them brings this, his petition for a writ of error, to the District Court of the United States, in and for the Southern District of California, Southern Division, and in that behalf your petitioners say and each of them says:

I.

On the 18th day of May, 1914, there was made, given, rendered and entered in the above-entitled court and cause a judgment against your petitioners and each of them wherein and whereby your petitioners were and each of them was adjudged and sen-



tenced to pay a fine of One Hundred Dollars and to four months imprisonment in the county jail of Riverside County, California, and your petitioners say and each of them says that he is advised by counsel and avers that there was and is manifest error in the records and proceedings had in such cause and in the making, giving, rendition and entry of such judgment and sentence, to the great injury and damage of your petitioners and each of them, all of which error will be more fully made to appear by an [97] examination of the said records and by an examination of the Bill of Exceptions to be hereafter by your petitioners entered and filed, and in the Assignment of Errors hereinafter set out; and to the end that the said judgment, sentence and proceedings may be reviewed by the United States Circuit Court of Appeals for the Ninth Circuit your petitioners pray and each of them prays that a writ of error may be issued, directed therefrom, to the said District Court of the United States, for the Southern District of California, Southern Division, according to law and the practice of the court and that there may be directed to be returned pursuant thereto a true copy of the record, bill of exceptions, assignment of errors and all the proceedings heretofore had in said cause that the same may be removed into the United States Circuit Court of Appeals for the Ninth Circuit to the end that the error, if any has happened, may be duly corrected and full and speedy justice done your petitioners and each of them.

And your petitioners make and each of them now makes an Assignment of Errors, attached hereto,

upon which they and each of them will rely and which will be made to appear by a return of the said record in obedience to said writ.

WHEREFORE, your petitioners pray and each of them prays the issuance of a writ as herein prayed and that the Assignment of Errors annexed hereto may be considered their assignment of errors upon the writ and that the judgment rendered in this cause may be reversed and held for naught, and that said cause may be remanded for further proceedings, and that they and each of them be awarded a supersedeas upon said judgment and all necessary process, including bail.

WILLIAM B. EDWARDS,  
ROBT. L. CULPEPPER,

Petitioners.

HENRY M. WILLIS,  
J. O. PHILLIPS,

Attorneys for Defendants. [98]

[Indorsed]: “No. 655 — Crim. (Original.) United States District Court Southern District of California, Southern Division. The United States of America, Plaintiffs, vs. William B. Edwards, et al., Defendants. Petition for Writ of Error and Assignment of Errors (attached). Service of within Petition and Assignment of Errors by copies admitted this 18th day of May, 1914. ———, Asst. U. S. Attorney. Filed May 18, 1914. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy. Henry M. Willis, 412-413 Katz Block, San Bernardino, California, Attorneys at Law.” [99]

*In the District Court of the United States, in and for  
the Southern District of California, Southern  
Division.*

THE UNITED STATES OF AMERICA,  
Plaintiffs,

vs.

WILLIAM B. EDWARDS, ROBERT L. CUL-  
PEPPER, et al.,

Defendants.

**Order Allowing Writ of Error, Supersedeas and  
Fixing Bail.**

Upon motion of Henry M. Willis, one of the attorneys for the defendants William B. Edwards and Robert L. Culpepper, and upon filing a petition for Writ of Error and Assignment of Errors, it is ordered that a Writ of Error be and hereby is allowed to have reviewed in the United States Circuit Court of Appeals for the Ninth Circuit, the verdict and judgment heretofore entered herein. That pending decision upon said Writ of Error the Supersedeas prayed for by the defendants in their petition for Writ of Error herein is hereby allowed and the defendant William B. Edwards is admitted to bail upon said Writ of Error in the sum of Three Thousand Dollars and the defendant Robert L. Culpepper is admitted to bail upon said Writ of Error in the sum of Three Thousand Dollars.

OLIN WELLBORN,  
Judge. [100]

[Indorsed]: "No. 655-Crim. (Original) United States District Court Southern District of California, Southern Division. The United States of America, Plaintiffs, vs. William B. Edwards, et al., Defendants. Order Allowing Writ of Error, Supersedeas and Fixing Bail. Filed May 18, 1914. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy. Henry M. Willis, 412-413 Katz Block, San Bernardino, California, Attorneys at Law." [101]

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*In the District Court of the United States, in and for  
the Southern District of California, Southern  
Division.*

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS, ROBERT L. CUL-  
PEPPER et al.,

Defendants.

**Supersedeas Bond.**

KNOW ALL MEN BY THESE PRESENTS:  
That we, Robert L. Culpepper, of Riverside County,  
California, principal, and James Walsh of Los An-  
geles County, California, and Mary E. Shiffer of  
Imperial County, California, as sureties are held and  
firmly bound unto the United States of America, in  
the full sum of Three Thousand Dollars, lawful  
money of the United States, to be paid to the United  
States of America, to which payment well and truly  
to be made, we bind ourselves, our heirs, executors



and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 18th day of May, 1914.

Whereas, lately, at a term of the District Court of the United States for the Southern District of California, Southern Division, in a suit pending in the said court, between the United States of America, plaintiff, and William B. Edwards and Robert L. Culpepper, and others, defendants, a judgment and sentence was made, given, rendered and entered against the said Robert L. Culpepper and the said Robert L. Culpepper having obtained a Writ of Error from the United States Circuit Court of Appeals for the Ninth Circuit to reverse said judgment and sentence, and a citation directed to the United States of America to be and [102] appear in the said United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, pursuant to the terms and at the time fixed in said citation, which citation has been duly served;

Now, the condition of the above obligation is such that if the said Robert L. Culpepper shall appear either in person or by attorney, in the United States Circuit Court of Appeals for the Ninth Circuit, on such day or days as may be appointed for the hearing of said cause in said Court, and prosecute his said Writ of Error, and if the said Robert L. Culpepper shall abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause, and shall surrender himself in execution of such judgment and sentence, as said Court may direct, if the judgment and sentence

100 *William B. Edwards and Robert L. Culpepper*  
against him shall be affirmed; and if he shall appear  
for trial in the District Court of the United States  
for the Southern District of California, Southern  
Division, on such day or days as may be appointed  
for the retrial by said District Court, and abide by  
and obey all orders made by said Court, provided  
the judgment and sentence against him shall be re-  
versed by the United States Circuit Court of Ap-  
peals for the Ninth Circuit, then the above obliga-  
tion to be void; otherwise to remain in full force,  
virtue and effect.

ROBERT L. CULPEPPER.

JAMES WALSH.

MARY E. SHIFFER. [103]

State of California,  
County of Los Angeles,—ss.

JAMES WALSH and MARY E. SHIFFER,  
being duly sworn, each for himself and not for the  
other, says that he is a resident and a freeholder in  
the Southern District of California, Southern Divi-  
sion, and is worth in property situated therein the  
sum of Three Thousand Dollars over and above all  
his just debts and liabilities, exclusive of property  
exempt from execution.

JAMES WALSH.

MARY E. SHIFFER.

Subscribed and sworn to before me this 18th day  
of May, 1914.

[Seal]

CHAS. N. WILLIAMS,  
U. S. Commissioner.

Form of bond and sufficiency of sureties approved.

DUKE STONE,  
Asst. United States Attorney.

The within bond accepted and approved this ——  
day of May, 1914.

OLIN WELLBORN,  
District Judge. [104]

[Indorsed]: “No. 655—Crim. United States District Court, Southern District of California, Southern Division. The United States of America, Plaintiffs, vs. William B. Edwards et al., Defendants. Supersedeas Bond of Robert L. Culpepper. Filed May 18, 1914. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk. Henry M. Willis 412–413 Katz Block, San Bernardino, California, Attorneys at Law. [105]

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*In the District Court of the United States, in and for  
the Southern District of California, Southern  
Division.*

THE UNITED STATES OF AMERICA,  
Plaintiffs,

vs.

WILLIAM B. EDWARDS, ROBERT L. CUL-  
PEPPER et al.,  
Defendants.

**Supersedeas Bond.**

KNOW ALL MEN BY THESE PRESENTS:  
That we, William B. Edwards, of Riverside County,  
California, principal, and A. R. Bowen of San  
Bernardino County, California, and Clara I. Bowen  
of San Bernardino County, California, as sureties  
are held and firmly bound unto the United States

102 *William B. Edwards and Robert L. Culpepper*  
of America, in the full sum of Three Thousand Dollars, lawful money of the United States, to be paid to the United States of America, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 18th day of May, 1914.

Whereas, lately at a term of the District Court of the United States for the Southern District of California, Southern Division, in a suit pending in the said court, between the United States of America, plaintiff, and William B. Edwards and Robert L. Culpepper, and others, defendants, a judgment and sentence was made, given, rendered and entered against the said William B. Edwards and the said William B. Edwards having obtained a Writ of Error from the United States Circuit Court of Appeals for the Ninth Circuit to reverse said judgment and sentence, and a citation directed to the United States of America to be and appear in [106] the said United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, pursuant to the terms and at the time fixed in said citation, which citation has been duly served;

Now, the condition of the above obligation is such that if the said William B. Edwards shall appear either in person or by attorney, in the United States Circuit Court of Appeals for the Ninth Circuit, on such day or days as may be appointed for the hearing of said cause in said Court, and prosecute his said Writ of Error, and if the said William B.



Edwards shall abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause, and shall surrender himself in execution of such judgment and sentence, as said Court may direct, if the judgment and sentence against him shall be affirmed; and if he shall appear for trial in the District Court of the United States for the Southern District of California, Southern Division, on such day or days as may be appointed for the retrial by said District Court, and abide by and obey all orders made by said Court, provided the judgment and sentence against him shall be reversed by the United States Circuit Court of Appeals for the Ninth Circuit, then the above obligation to be void; otherwise to remain in full force, virtue and effect.

WILLIAM B. EDWARDS.

A. R. BOWEN.

CLARA I. BOWEN. [107]

State of California,  
County of Los Angeles,—ss.

A. R. BOWEN and CLARA I BOWEN, being duly sworn, each for himself and not for the other, says that he is a resident and a freeholder in the Southern District of California, Southern Division, and is worth in property situated therein the sum of Three Thousand Dollars over and above all his just debts and liabilities, exclusive of property exempt from execution.

A. R. BOWEN.

CLARA I. BOWEN.

Subscribed and sworn to before me this 18th day of May, 1914.

[Seal]

CHAS. N. WILLIAMS,

Form of bond and sufficiency of sureties approved.

DUKE STONE,

Asst. United States Attorney.

The within bond accepted and approved this \_\_\_\_\_ day of May, 1914.

OLIN WELLBORN,

District Judge. [108]

[Indorsed]: "No. 655—Crim. United States District Court, Southern District of California, Southern Division. The United States of America, Plaintiffs, vs. William B. Edwards et al., Defendants. Supersedeas Bond of Wm. B. Edwards. Filed May 18, 1914. Wm. M. Van Dyke, Clerk. By Leslie S. Colyer, Deputy Clerk. Henry M. Willis, 412-413 Katz Block, San Bernardino, California, Attorneys at Law." [109]

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UNITED STATES OF AMERICA.

*District Court of the United States, Southern District of California, Southern Division.*

CLERK'S OFFICE.

No. 655—CRIM.

UNITED STATES OF AMERICA

vs.

WM. B. EDWARDS et al.

**Praeceptum [for Transcript of Record].**

To the Clerk of Said Court:

Sir: Please issue under the hand of the Clerk and the seal of the Court copies of the following papers, the same to constitute the record in the above-entitled cause on Writ of Error to the U. S. Circuit Court of Appeals for the Ninth Circuit, viz.:

Indictment;

Arraignment and Pleas;

Minutes of Trial;

Verdict;

All orders continuing cause, motion for new trial, order denying motion, Sentence and Judgment;

Clerk's Certificate to Judgment-roll;

Petition for Writ of Error;

Assignment of Errors;

Order Allowing Writ of Error;

Supersedeas Bond of Robert L. Culpepper;

Supersedeas Bond of Wm. B. Edwards;

All orders fixing or extending time to prepare Bill of Exceptions;

Bill of Exceptions on behalf of defendants Wm. B. Edwards and Robt. L. Culpepper;

Order Allowing Bill of Exceptions, etc.; [110]

Writ of Error;

Citation on Writ of Error;

Answer to Writ of Error;

Clerk's Certificate to Transcript.

HENRY M. WILLIS,  
Attorney for Defendants.

[Endorsed]: "No. 655—Crim. U. S. District Court, Southern District of California, Southern Division. United States of America vs. Wm. B. Edwards et al. Praecipe for Papers in the Case on Writ of Error to U. S. Circuit Court of Appeals. Filed Nov. 13, 1914. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk." [111]

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*In the District Court of the United States, in and for  
the Southern District of California, Southern  
Division.*

No. 655—CRIM.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

WILLIAM B. EDWARDS, ROBERT L. CUL-  
PEPPER et al.,

Defendants.

**Certificate of Clerk U. S. District Court to Trans-  
cript of Record.**

I, Wm. M. Van Dyke, Clerk of the District Court of the United States of America, in and for the Southern District of California, do hereby certify the foregoing one hundred and eleven (111) type-written pages, numbered from 1 to 111 inclusive, and comprised in one (1) volume, to be a full, true and correct copy of the Indictment, Pleas of Defendants, Minutes of Trial, Verdict, Order Denying Motion for New Trial, and Judgment of the Court, Clerk's Certificate to Judgment-roll, Orders Continuing Cause for Trial, Motion for New Trial, Order



Extending Time to Prepare and File Bill of Exceptions, Order Fixing Time to Prepare and File Bill of Exceptions, Bill of Exceptions, Assignment of Errors, Petition for Writ of Error, Order Allowing Writ of Error, Supersedeas Bond of Defendant Robert L. Culpepper, Supersedeas Bond of Defendant William B. Edwards, and Praecipe for Transcript in the above and therein entitled cause; and I do further certify that the above constitutes the record in said cause as specified in the said Praecipe filed in my office on behalf of the plaintiffs in error by their attorneys of record.

I do further certify that the cost of the foregoing [112] record is \$53 95/100, the amount whereof has been paid me by William B. Edwards and Robert L. Culpepper, the plaintiffs in error in said cause.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the District Court of the United States of America, in and for the Southern District of California, Southern Division, this 9th day of January, in the year of our Lord, one thousand nine hundred and fifteen, and of our Independence, the one hundred and thirty-ninth.

[Seal]

WM. M. VAN DYKE,

Clerk of the District Court of the United States of America, in and for the Southern District of California.

[Ten Cents Internal Revenue Stamp. Canceled January 9, 1915. Wm. M. V. D.] [113]

[Endorsed]: No. 2568. United States Circuit Court of Appeals for the Ninth Circuit. William B. Edwards and Robert L. Culpepper, Plaintiffs in Error, vs. The United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Southern District of California, Southern Division.

Received January 13, 1915.

F. D. MONCKTON,  
Clerk.

Filed February 8, 1915.

FRANK D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals,  
for the Ninth Circuit.

By Meredith Sawyer,  
Deputy Clerk.

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**[Order Enlarging Time to Docket Cause and File  
Record to August 1, 1914.]**

*In the United States Circuit Court of Appeals, Ninth  
Judicial Circuit.*

WILLIAM B. EDWARDS et al.,  
Plaintiffs in Error,  
vs.

THE UNITED STATES OF AMERICA,  
Defendants in Error.

Good cause appearing therefor, it is hereby ordered, that the time heretofore allowed said plaintiffs in error to docket said cause and file the record thereof, with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, be and the

same is hereby enlarged and extended to and including the 1st day of August, 1914.

Los Angeles, May 27th, 1914.

OLIN WELLBORN,

United States District Judge, Southern District of  
California.

[Endorsed]: No. — United States Circuit Court of Appeals, for the Ninth Circuit. William B. Edwards et al., Plaintiffs in Error, vs. The United States of America, Defendants in Error. Order Enlarging Time to File Record, etc. Filed Jun. 2, 1914. F. D. Monckton, Clerk.

**[Order Enlarging Time to Docket Cause and File  
Record to October 1, 1914.]**

*In the United States Circuit Court of Appeals, Ninth  
Judicial Circuit.*

WILLIAM B. EDWARDS et al.,  
Plaintiffs in Error,  
vs.

THE UNITED STATES OF AMERICA,  
Defendants in Error.

Good cause appearing therefor, it is hereby ordered, that the time heretofore allowed said plaintiffs in error to docket said cause and file the record thereof, with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, be and the same is hereby enlarged and extended to and includ-

ing the 1st day of October, 1914.

Los Angeles, July 28th, 1914.

OLIN WELLBORN,

United States District Judge, for the Southern District of California.

[Endorsed]: No. — United States Circuit Court of Appeals, for the Ninth Circuit. William B. Edwards et al., Plaintiffs in Error, vs. The United States of America, Defendants in Error. Order Enlarging Time to Docket Cause and File Record. Filed Jul. 30, 1914. F. D. Monckton, Clerk.

**[Order Enlarging Time to Docket Cause and File Record to December 1, 1914.]**

*In the United States Circuit Court of Appeals, Ninth Judicial Circuit.*

WILLIAM B. EDWARDS et al.,

Plaintiffs in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendants in Error.

Good cause appearing therefor, it is hereby ordered, that the time heretofore allowed said plaintiffs in error to docket said cause and file the record thereof, with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, be and the same is hereby enlarged and extended to and including the 1st day of December, 1914.



Dated at Los Angeles, September 28th, 1914.

OLIN WELLBORN,  
United States District Judge, Southern District of  
California.

[Endorsed]: No. — United States Circuit  
Court of Appeals, for the Ninth Circuit. William  
B. Edwards et al., Plaintiffs in Error, vs The United  
States of America, Defendants in Error. Order En-  
larging Time to Docket Cause and File Record.  
Filed Sep. 30, 1914. F. D. Monckton, Clerk.

**[Order Extending Time to Docket Cause and File  
Record to January 1, 1915.]**

*In the United States Circuit Court of Appeals, Ninth  
Judicial Circuit.*

WILLIAM B. EDWARDS et al.,  
Plaintiffs in Error,  
vs.

THE UNITED STATES OF AMERICA,  
Defendants in Error.

Good cause appearing therefor, it is hereby  
ordered, that the time heretofore allowed said plain-  
tiffs in error to docket said cause and file the record  
thereof, with the Clerk of the United States Circuit  
Court of Appeals for the Ninth Circuit, be and the  
same is hereby enlarged and extended to and includ-  
ing the 1st day of January, 1915.

Dated at Los Angeles, November 30th, 1914.

OLIN WELLBORN,  
United States District Judge, for the Southern Dis-  
trict of California.

[Endorsed]: No. — United States Circuit Court of Appeals, for the Ninth Circuit. William B. Edwards et al., Plaintiffs in Error, vs. The United States of America, Defendants in Error. Order Extending Time to Docket Cause and File Record. Filed Dec. 2, 1914. F. D. Monckton, Clerk.

**[Order Extending Time to File Record and Docket Cause to February 1, 1915.]**

*In the United States Circuit Court of Appeals, Ninth Judicial Circuit.*

WILLIAM B. EDWARDS et al.,  
Plaintiffs in Error,  
vs.

THE UNITED STATES OF AMERICA,  
Defendants in Error.

Good cause appearing therefor, it is hereby ordered, that the time heretofore allowed said plaintiffs in error to docket said cause and file the record thereof, with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, be, and the same is hereby enlarged and extended to and including the 1st day of February, 1915.

Dated at Los Angeles, December 28th, 1914.

OLIN WELLBORN,  
United States District Judge, for the Southern District of California.

[Endorsed]: No. — United States Circuit Court of Appeals, for the Ninth Circuit. Wm. B. Edwards et al., Plaintiffs in Error, vs. The United States of America, Defendants in Error. Order Extending Time to File Record. Filed Dec. 29, 1914. F. D. Monckton, Clerk.

No. 2568. United States Circuit Court of Appeals, for the Ninth Circuit. Orders Under Rule 16 Enlarging to File Record Thereof and to Docket Case. Re-filed Feb. 8, 1915. F. D. Monckton, Clerk.

